



**AMENDED
MEETING OF THE
TEMPLE CITY COUNCIL**

**MUNICIPAL BUILDING
2 NORTH MAIN STREET
3rd FLOOR – CONFERENCE ROOM**

THURSDAY, DECEMBER 5, 2019

3:30 P.M.

AGENDA

CITY COUNCIL WORKSHOP AGENDA:

I. PUBLIC COMMENTS

Citizens who desire to address the Council on any matter listed on the Workshop Agenda may sign up to do so prior to this meeting. Public comments will be received during this portion of the meeting. Please limit comments to three minutes. No discussion or final action will be taken by the City Council.

II. WORK SESSION

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, December 5, 2019.
2. Receive a presentation regarding the neighborhood planning program.
3. The City Council will enter into executive session to seek the advice of its attorney on pending or contemplated litigation or a settlement offer pursuant to Texas Government Code Section 551.071 and will conduct a private consultation with its attorney on a matter in which the duty of the attorney to the Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Texas Local Government Code Chapter 551.

The City Council reserves the right to discuss any items in executive (closed) session whenever permitted by the Texas Open Meetings Act.

5:00 P.M.
MUNICIPAL BUILDING
2 NORTH MAIN STREET
CITY COUNCIL CHAMBERS – 2ND FLOOR
TEMPLE, TX
TEMPLE CITY COUNCIL
REGULAR MEETING AGENDA

I. CALL TO ORDER

1. Invocation
2. Pledge of Allegiance

II. PUBLIC COMMENTS

Citizens who desire to address the Council on any matter may sign up to do so prior to this meeting. Public comments will be received during this portion of the meeting. Please limit comments to three minutes. No discussion or final action will be taken by the City Council.

III. PUBLIC APPEARANCE/SPECIAL RECOGNITION

3. Receive presentation from Kerry Fillip, Director of Central Texas Council of Governments for recent awarding of grant for elderly abuse.
4. Recognition of the 2019 Corporate Challenge winners.

IV. CONSENT AGENDA

All items listed under this section, Consent Agenda, are considered to be routine by the City Council and may be enacted by one motion. If discussion is desired by the Council, any item may be removed from the Consent Agenda at the request of any Councilmember and will be considered separately.

5. Consider adopting a resolution approving the Consent Agenda items and the appropriate resolutions and ordinances for each of the following:

Minutes

- (A) [November 18, 2019 Special Called Meeting](#)
- (B) [November 21, 2019 Special & Regular Called Meeting](#)

Contracts, Leases, & Bids

- (C) [2019-9913-R](#): Consider an interlocal agreement with the City of Belton to loan a retired Temple fire engine to the Belton Fire Department to serve as a reserve engine.
- (D) [2019-9914-R](#): Consider adopting a resolution authorizing a professional services agreement with RJN Group of Dallas, for an assessment of Bird Creek wastewater basin, in an amount not to exceed \$2,242,000, as well as, declare an official intent to reimburse the expenditures with the issuance of 2020 Utility Revenue Bonds.
- (E) [2019-9915-R](#): Consider adopting a resolution authorizing a services agreement for the purchase of on-site fuel with Allied Sales of Temple, in the estimated annual amount of \$50,000.
- (F) [2019-9916-R](#): Consider adopting a resolution authorizing a construction contract with Clark Roofing and Construction of Waco in the amount of \$60,483.23 for the re-roofing of the Jamie Hager Clements Complex, as well as declare an official intent to reimburse the expenditures with the issuance of the 2020 Combination Tax & Revenue Bonds.
- (G) [2019-9917-R](#): Consider adopting a resolution authorizing a construction contract with Clark Roofing and Construction of Waco in the amount of \$78,777.59 for the re-roofing at the Old Central Fire Station, as well as declare an official intent to reimburse the expenditures with the issuance of the 2020 Combination Tax & Revenue Bonds.
- (H) [2019-9918-R](#): Consider adopting a resolution authorizing a CDBG-funded demolition contract for residential structures with Garrett Demolition, Inc. of Burleson, in the amount of \$55,573.
- (I) [2019-9919-R](#): Consider adopting a resolution authorizing a Memorandum of Understanding with the Federal Bureau of Investigations for participation of Temple Police Department personnel in the Austin Safe Streets Task Force and execution of a related Cost Reimbursement Agreement for reimbursement of task force related overtime expenses.
- (J) [2019-9920-R](#): Consider adopting a resolution authorizing contract amendment #2 to a professional services agreement with Kasberg, Patrick & Associates, LP, for environmental planning services for Phase 4 of the Outer Loop, in the amount of \$133,000.
- (K) [2019-9921-R](#): Consider adopting a resolution authorizing contract amendment #3 to the professional services agreement with Kasberg, Patrick & Associates, LP, for design phase services required for the new Pepper Creek 1.0-MG elevated storage tank, in the amount of \$32,080.
- (L) [2019-9922-R](#): Consider adopting a resolution authorizing the purchase of a new vertical turbine pump for the City's water distribution system from Odessa Pumps of Odessa, in the amount of \$52,920.

Misc.

- (M) [2019-9923-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2019-2020.

V. REGULAR AGENDA

ORDINANCES

6. **2019-5010:** FIRST READING – PUBLIC HEARING – FY-20-1-ZC: Consider adopting an ordinance authorizing a Conditional Use Permit with a site plan to allow a veterinary hospital and kennels at 610 Hilliard Road, Temple, Texas.
7. **2019-5011:** FIRST READING – PUBLIC HEARING – FY-20-3-ZC: Consider an ordinance adopting a site development plan and rezoning from Agricultural and Single Family-Three to Planned Development-General Retail on 0.348 +/- acres and Planned Development-General Retail with a Conditional Use Permit for the sale of alcoholic beverages for on-site consumption, where the sale of alcohol may be up to 50% of the total revenue, on 0.108 +/- acres and 1.456 +/- acres, situated in the Baldwin Robertson Survey, Abstract No. 17, Bell County, Texas, located at Prairie View Road and east of Westfield Boulevard.
8. **2019-5012:** FIRST READING – PUBLIC HEARING – FY-20-5-ZC: Consider adopting an ordinance authorizing a rezoning from Central Area to Planned Development-Central Area zoning district with a site development plan, to allow a brewery for alcohol sales at 8 South 1st Street.
9. **2019-5013:** FIRST READING – PUBLIC HEARING – FY-20-4-ZC: Consider adopting an ordinance authorizing a Conditional Use Permit to allow a microbrewery for alcohol sales at 8 South 1st Street.

RESOLUTIONS

10. **2019-9924-R:** Consider a resolution authorizing the adoption of the 2019 Water and Wastewater Master Plan.

The City Council reserves the right to discuss any items in executive (closed) session whenever permitted by the Texas Open Meetings Act.

I hereby certify that a true and correct copy of this Notice of Meeting was published to the City of Temple's website at 10:30 AM, December 2, 2019. This notice was posted in a public place at 10:40 AM, this same day.



Deputy City Secretary

SPECIAL ACCOMMODATIONS: *Persons with disabilities who have special communication or accommodation needs and desire to attend this meeting should notify the City Secretary's Office by mail or telephone 48 hours prior to the meeting date.*



COUNCIL AGENDA ITEM MEMORANDUM

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Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Stephanie Hedrick, Deputy City Secretary

ITEM DESCRIPTION: Approve Minutes:

- (A) November 18, 2019 Special Called Meeting
- (B) November 21, 2019 Special & Regular Called Meeting

STAFF RECOMMENDATION: Approve minutes as presented in item description.

ITEM SUMMARY: Copies of minutes are enclosed for Council review.

FISCAL IMPACT: N/A

ATTACHMENTS:

[November 18, 2019 Special Called Meeting Minutes](#)

[November 21, 2019 Regular & Special Called Meeting Minutes / Video](#)

SPECIAL MEETING OF THE TEMPLE CITY COUNCIL

NOVEMBER 18, 2019

The City Council of the City of Temple, Texas conducted a special called meeting on Monday November 18, 2019 at 9:00 AM, at the Municipal Building, 2 North Main Street, in the 3rd Floor Conference Room.

Present:

Councilmember Susan Long
Councilmember Jessica Walker
Mayor Pro-Tem Judy Morales
Councilmember Wendell Williams

I. EXECUTIVE SESSION

1. City Council will enter into executive session under Texas Government Code Section 551.071(2) to consult with its attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551.

The City Council reserves the right to discuss any items in executive (closed) session whenever permitted by the Texas Open Meetings Act.

Timothy A. Davis
Mayor

ATTEST:

Stephanie Hedrick
Deputy City Secretary

TEMPLE CITY COUNCIL

NOVEMBER 21, 2019

The City Council of the City of Temple, Texas conducted a meeting on Thursday, November 21, 2019 at 4:30 PM, at the Municipal Building, 2 North Main Street, in the 3rd Floor Conference Room.

PRESENT:

Councilmember Susan Long
Councilmember Jessica Walker
Councilmember Wendell Williams
Mayor Pro Tem Judy Morales
Mayor Timothy A. Davis

I. PUBLIC COMMENTS

No one signed up to speak.

II. WORK SESSION

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, November 21, 2019.

ITEM 4 on the regular agenda, the second reading of the FY-19-32 zoning case. Related to the TMED South development.

Ms. Myers noted that the developer of this project has asked Brian Chandler, Planning Director to clarify one of the conditions that was made as part of the motion at the November 7th City Council meeting. Council was asked to recall the motion that was approved the zoning as presented by Staff with a few additional conditions: (1) Removal of the self-storage as an allowable land use for the project. (2) Elevations and the Site Plan for the car wash and fueling station/convenient store return to the Planning & Zoning Commission and City Council for approval. (3) Requiring the sidewalk along Blackland Road to be constructed prior to a certificate of occupancy is given for the project. Ms. Myers stated that by standard code requirements, the applicant would have to construct the sidewalk along the entire length of 5th Street, as well as, the first portion of the tract where the car wash and fueling station would be located on. Developer's question was, does the sidewalk need to be installed the entire length of Blackland Road before they receive a certificate of occupancy for the car wash and fueling station.

Ms. Myers pointed out that the rest of the site plan is still conceptual, and they do not have defined driveway locations and First Street is not defined. If the third exception is kept the developer would have to tear up portions of the sidewalk when the drives are constructed, and First Street is constructed for further development. May consider removing the third exception and have it follow normal code procedures, and any other development the sidewalk would need to be constructed before receiving a certificate of occupancy that would be issued for that portion.

Ms. Myers mentioned to Council that Mr. Chandler will have a presentation available to them during the Council meeting if they wish to see again.

Mayor Davis mentioned the topic of “sidewalks to nowhere” and if the self-storage building isn’t constructed or that piece is undeveloped then a sidewalk would not be required. A sidewalk would be making the corner around Blackland Road but would stop until further development occurs. Ms. Myers added unless the City installs it through a Capitol Improvement Project.

CONSENT Agenda Item #3(L) Ms. Myers noted that the City received a donation to the Temple Public Library. The donation is for capital improvements to the library.

CONSENT Agenda Item 3#(N) Ms. Smith gave a brief presentation over a conceptual design for Storybook Park to be located on 102 West Barton Avenue, behind the Temple Public Library. Ms. Myers mentioned to Council that the item on today’s agenda is to purchase 102 West Barton Avenue.

Councilmember Williams added that the Shriner’s Hospital has a park similar to Storybook Park that is associated with the hospital.

Mayor Davis added that Abilene has a park similar as well and would be a beautiful addition to downtown.

Councilmember Long noted that the park would begin to pull the library into the downtown area.

Kevin Beavers Director of Parks noted that it will be a great addition and they are excited to see this happen.

2. Receive a presentation on the fourth quarter financial results for the fiscal year ended September 30, 2019

Traci Barnard, Director of Finance provided a brief presentation of the Fiscal 2018/2019-year end results for the General Fund, Water & Sewer Fund, Hotel/Motel Tax Fund, Drainage Fund, and the Reinvestment Zone No. 1 Fund as of September 30, 2019. Ms Barnard included various schedules detailing construction contracts, grants, sales tax, capital projects and investments.

At approximately 4:58 PM Mayor Davis adjourned workshop.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, November 21, 2019 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

I. CALL TO ORDER

1. Invocation

Pastor Billy Koinm, Heights Baptist Church, voiced the Invocation.

2. Pledge of Allegiance

Jason Deckman, City of Temple Planner, led the Pledge of Allegiance.

II. PUBLIC COMMENTS

Thomas Cunningham 7315 Boutwell Lane East, Temple 76502 - The landing on heritage oaks on Highway 93 in south Temple, land in question is in rezoning, and approx 20 acres. Directly adjoins Mr. Cunningham's property on the east side and five other properties on Boutwell Lane East. The concern about surface flooding. April 2017 significant flooding. slopes to the west and has rugged topography. Pond been there about 60 years, works well for controlling flooding, but past few years has had a difficult time keeping up with drainage. Would like the developers to seek advice from the Bell County Engineer's office and include their precinct commissioner Russell Schneider. They would like to ask Quintero Engineering or City Council for a copy of state final grading plan and allow them to provide input from their own Civil engineers.

Jim James 7500 Boutwell East lane - On April 8, 2017 flooding from rain caused their house to flood, and their property is located across the street from the houses that back up to the proposed subdivision. Because of the lack of drainage on the subdivision property the water came across Boutwell East Lane and caused water damage. Concerned about flooding that comes from drainage from 34 rooftops in the neighborhood. Flooding coming across the west to the east.

Shannon Wittmer 1105 Steamboat Drive Hewitt 76643 - Goodwill closing its downtown Temple location. The Goodwill stores in Temple are a part of 13 retail operations and five job connection centers that are operated by Heart of Texas Goodwill. All Goodwill agencies are independent operations. Help with barriers to achieve jobs and services, computer skills, resume classes, information technology certification, interview resources, and paid job training. Have been around Temple for over 50 years. There will be no disruptions to the services that are provided when store closes in late December.

Mason Schieffer with 363 Development 2103 Tabor Road Bryan 77803- To discuss rezoning for TMED South and clarify the motion made with exceptions of having sidewalk before receiving the certificate of occupancy.

III. CONSENT AGENDA

3. Consider adopting a resolution approving the Consent Agenda items and the appropriate resolutions and ordinances for each of the following:

(A) 2019-9894-R: Consider adopting a resolution recognizing a name change on an interlocal cooperative purchasing agreement from National Joint Powers Alliance to Sourcewell.

(B) 2019-9895-R: Consider adopting a resolution authorizing an Airport Hangar Lease agreement with PHI Health, LLC for the lease of Hangar No. 22 at the Draughon-Miller Central Texas Regional Airport.

(C) 2019-9896-R: Consider adopting a resolution authorizing a services agreement for generator and transfer switch maintenance and repair services with LJ Power, Inc. of Austin, in an estimated annual amount for FY 2020 of \$50,000.

(D) 2019-9897-R: Consider adopting a resolution authorizing the City Manager to execute an Advanced Funding Agreement, and any other documents necessary to complete the transaction, with the State of Texas (Texas Department of Transportation) to fund 20% of the construction costs for the improvements to Outer Loop West Phase 1, from Jupiter Drive to Riverside Trail.

(E) 2019-9898-R: Consider adopting a resolution authorizing a Tourism & Arts Grant agreement with the Cultural Activities Center, for operational support, in an amount not to exceed \$54,000.

(F) 2019-9899-R: Consider adopting a resolution authorizing a Strategic Partner Grant agreement with Keep Temple Beautiful, for operational support, in an amount not to exceed \$55,000.

(G) 2019-9900-R: Consider adopting a resolution authorizing a Strategic Partner Grant agreement with Hill Country Transit District, for HOP fixed route and paratransit public transportation programs, in an amount not to exceed \$117,305.

(H) 2019-9901-R: Consider adopting a resolution authorizing a construction contract with Schindler Elevator Corporation of Austin in the amount of \$238,825 for the modernization of the two Library lobby elevators, as well as, declare an official intent to reimburse the expenditures with the issuance of the 2020 Combination Tax & Revenue Bonds.

(I) 2019-9902-R: Consider adopting a resolution authorizing a construction contract with Schindler Elevator Corporation of Austin in the amount of \$106,194 for the modernization of the City Hall elevator, as well as, declare an official intent to reimburse the expenditures with the issuance of the 2020 Combination Tax & Revenue Bonds.

(J) 2019-9903-R: Consider adopting a resolution authorizing a yearly subscription for permitting, planning and code enforcement online software through South Central Planning and Development Commission of Houma, Louisiana, in the estimated amount of \$75,000.

(K) 2019-9904-R: Consider adopting a resolution authorizing the application and acceptance of the Emergency Management Performance Grant for FY 2020, which funds a portion of the administration cost for Emergency Management for the City of Temple, in the estimated of \$40,000.

(L) 2019-9905-R: Consider adopting a resolution authorizing acceptance of a Temple Public Library donation, in the amount of \$62,500 to fund capital improvements.

(M) 2019-9906-R: Consider adopting a resolution authorizing the purchase of plastic 96-gallon garbage and recycling containers during FY 2020 from Toter, Inc., of Statesville, North Carolina, in the estimated amount of \$158,500.

(N) 2019-9907-R: Consider adopting a resolution authorizing the purchase of property situated at 102 West Barton Avenue and authorizing closing costs associated with the purchase in an estimated amount of \$85,000 as well as, declare an official intent to reimburse the expenditures with the issuance of the 2020 Combination Tax & Revenue Bonds.

Councilmember Susan Long pulled Item #3(N) to allow brief presentation from Erin Smith, Assistant City Manager.

Councilmember Susan Long recognized both of the Temple Public Librarians.

Motion by Councilmember Susan Long to adopt Item #3(N) as presented by Staff, seconded by Councilmember Jessica Walker.

Motion passed unanimously.

(O) 2019-9908-R: Consider adopting a resolution authorizing the purchase of 12 police vehicles from Caldwell Country Ford, dba Rockdale Country Ford, of Rockdale, in the amount of \$666,841.96.

(P) 2019-9909-R: Consider adopting a resolution authorizing the purchase of a Pierce aerial platform fire truck from Siddons-Martin Emergency Group of Denton, in an amount not to exceed \$1,294,999. Ordinances – Second & Final Reading

(Q) 2019-5003: SECOND & FINAL READING - Consider adopting an ordinance authoring an amendment and adopting the Tax Increment Financing Reinvestment Zone No. 1 Financing and Project Plans adjusting expenditures for years FY 2019-2023.

(R) 2019-5005: SECOND & FINAL READING – FY-19-29-ZC: Consider adopting an ordinance authorizing a Conditional Use Permit with a Site Plan to allow for the sale of beer and wine for on-premise consumption of less than 10% of total revenue at 10148 West Adams Avenue.

(S) 2019-5006: SECOND & FINAL READING – FY-19-30-ZC: Consider adopting an ordinance authorizing a rezoning from Two-Family to Planned Development-Neighborhood Service with a development/ site plan for a specialty coffee shop, located at 1617 West Avenue R.

(T) 2019-5007: SECOND & FINAL READING – FY-19-31-ZC: Consider an ordinance adopting a rezoning from Agricultural zoning district to Single Family-Two on 0.942 +/- acres addressed as 3707 West Nugent Avenue.

(U) 2019-5009: SECOND & FINAL READING – FY-19-33-ZC: Consider adopting an ordinance authorizing a rezoning from Agricultural zoning district to Urban Estates zoning district, on 3.16 +/- acres, addressed as 1709 West FM 93. Misc.

Councilmember Susan Long pulled item for brief discussion - Councilmember Long represents that area, and most calls that she receives are about drainage issues, takes into account with Brian Chandler on the issues and citizens that are emphasizing their concern.

Jason Deckman, City of Temple Planner - is the case manager on the rezoning and the plat it is being looked at. Drainage and septic are being looked at. Rezoning has to come first, and the zoning is in place, that facilitate them to review the plat to develop the land. The preliminary plat will get approved by the engineer and the county engineer provides input before being brought forward.

Ms. Myers asked Mr. Deckman to clarify that as long as no exceptions are being brought forward the Planning and Zoning Commission is the final authority, unless there is an exception requested, if so it will be brought forward to Council for approval.

Motion by Wendell Williams to adopt Item #3(U) as presented by Staff, seconded by Mayor Pro Tem Morales.

(V) 2019-9910-R: Consider adopting a resolution approving the fourth quarter financial results for the fiscal year ended September 30, 2019.

(W) 2019-9911-R: Consider adopting a resolution authorizing the carry forward of FY 2018-2019 funds to the FY 2019-2020 budget.

Motion by Councilmember Jessica Walker adopt the Consent Agenda as presented by Staff minus Item #3(N) and Item #3(U) as requested by Councilmember Susan Long for presentation and comment, seconded by Mayor Pro Tem Judy Morales.

Motion passed unanimously.

IV. REGULAR AGENDA

ORDINANCES

4. [**2019-5008: SECOND & FINAL READING – FY-19-32-ZC: Consider adopting an ordinance authorizing a rezoning from Agricultural zoning district to Planned Development Temple Medical and Educational zoning district, T-South Transect, with a development/ site plan on 23.069 +/- acres, located east of South 5th Street and south of West Blackland Road.**](#)

Ms. Myers states that this on the agenda primarily for voting purposes.

The sidewalk along Blackland Road would need to be constructed prior to issuance of a certificate of occupancy is the exception that needs clarification.

Councilmember Wendell Williams made the motion with the three exceptions at the November 7th meeting, and mentioned that he would be more than willing to take out the sidewalk consideration and have it according to City code.

Motion by Councilmember Wendell Williams to approve the project per Staff recommendations with the caveat of the removal of the self-storage use and that elevations and site plans for the car wash/fueling station/convenient store return to the Planning and Zoning Commission and City Council for approval. Seconded by Councilmember Susan Long.

Motion passed unanimously.

5. [**2019-5004: SECOND & FINAL READING: Consider adopting an ordinance amending Chapter 26, "Peddlers, Solicitors and Itinerant Vendors," of the City of Temple's Code of Ordinances.**](#)

Amanda Rice, Deputy City Attorney gave a brief presentation for the second reading of chapter 26, clarification of first reading.

City Staff prepared numbers of accidents solicitations at lighted intersections - 30 pedestrian involved intersections or intersection related crashes in the city - of those 30, 18 crashes occurred at traffic light intersection

Seven pedestrian related crashes occurred at stop sign intersection, five of which occurred at or near residential areas.

Staff recommends solicitation in the roadway as previously presented and only prohibiting selling, soliciting, and distributing material to occupants at stoplights and not at stop signs as well.

Door-to-door solicitation - girl scouts, and school children are not required to obtain a solicitors license. Applying with the bell county public health district regulations, designated hours for solicitation, no solicitation on private property.

Motion by Mayor Pro Tem Judy Morales to adopt the ordinance as presented on second and final reading by Staff, seconded by Councilmember Susan Long.

Motion passed unanimously.

RESOLUTIONS

6. [2019-9912-R: Consider adopting a resolution setting fees related to the City's door-to-door solicitation license established in Chapter 26, "Solicitation," of the City's Code of Ordinances.](#)

\$35 application fee for the primary applicant - \$5 for each employee - \$5 for license replacement fees allows City Council to set those fees through resolution.

Motion by Councilmember Jessica Walker to adopt the resolution as presented by Staff, seconded by Councilmember Susan Long.

Motion passed unanimously.

Minutes prepared by Stephanie Hedrick, Deputy City Secretary.

ATTEST:

Timothy A. Davis, Mayor

Stephanie Hedrick
Deputy City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

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Item #5(C)
Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Mitch Randles, Fire Chief

ITEM DESCRIPTION: Consider an interlocal agreement with the City of Belton to loan a retired Temple fire engine to the Belton Fire Department to serve as a reserve engine.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The request is for approval of the an interlocal agreement with the City of Belton for the loan of a fire engine. On October 29th, 2019 a Belton fire engine was involved in an accident on I-35. This accident severely damaged the engine and rendered it unusable. As a result, Belton does not have a reserve fire engine to use if one of their front-line apparatus requires maintenance or repairs. The engine to be loaned is Temple fleet #10112, a 1996 Spartan/Quality engine which was to be retired from service in November 2019.

The length of the loan is currently unknow, the replacement or repair of the Belton engine could take anywhere from a few weeks to several months. The loan of this engine will not cause a shortage of apparatus for the city or affect city operations.

FISCAL IMPACT: The City of Belton will have insurance on the fire engine. They will also be responsible for any repairs that are above “normal wear and tear” so that the fire engine will be returned to the City in like condition. The sale of the decommissioned fire engine will be postponed until it is returned to the City.

ATTACHMENTS:

[Interlocal agreement \(to be provided\)](#)
[Resolution](#)

RESOLUTION NO. 2019-9913-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN INTERLOCAL AGREEMENT WITH THE CITY OF BELTON TO LOAN A RETIRED TEMPLE FIRE ENGINE TO THE BELTON FIRE DEPARTMENT TO SERVE AS A RESERVE ENGINE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on October 29th, 2019 a Belton fire engine was involved in an accident on I-35 which severely damaged the engine, rendering it unusable, and as a result, Belton does not have a reserve fire engine to use if one of their front-line apparatus requires maintenance or repairs;

Whereas, the Texas Government Code, Chapter 791, the “Interlocal Cooperation Act,” authorizes local government entities to enter into interlocal contracts for governmental purposes;

Whereas, the engine to be loaned is Temple Asset No. 10112, a 1996 Spartan/Quality engine which was to be retired from service in November 2019;

Whereas, the length of the loan is currently unknown – however, the loan of this engine will not cause a shortage of apparatus for the City of Temple or affect City operations;

Whereas, Staff recommends Council authorize an Interlocal Agreement with the City of Belton to loan a retired Temple fire engine to the Belton Fire Department to serve as a reserve engine;

Whereas, the City of Belton will maintain insurance on the fire engine and will be responsible for maintenance of the engine and any repairs that exceed “normal wear and tear”- Belton will return the fire engine to the City in “like” condition - the sale of the decommissioned fire engine will be postponed until it is returned to the City; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

Part 2: The City Council authorizes the City Manager, or her designee, after approval as to form by the City Attorney’s Office, to execute an Interlocal Agreement with the City of Belton to loan a retired Temple fire engine to the Belton Fire Department.

Part 3: It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **5th** day of **December**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephanie Hedrick
Deputy City Secretary

Kayla Landeros
Interim City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/05/19

Item #5(D)

Consent Agenda

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DEPT./DIVISION SUBMISSION & REVIEW:

Kenton Moffett, P. E., Assistant Director of Public Works

Carrie Weir, Deputy Director of Utilities

ITEM DESCRIPTION: Consider adopting a resolution authorizing a professional services agreement with RJN Group of Dallas, for an assessment of Bird Creek wastewater basin, in an amount not to exceed \$2,242,000, as well as, declare an official intent to reimburse the expenditures with the issuance of 2020 Utility Revenue Bonds.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City of Temple's wastewater collection system is critical to safeguarding public health, preserving the environment, and sustaining our economy. The collection system consists of over 400 miles of wastewater pipes, lift stations and treatment facilities which in many areas are deteriorating and aged, allowing significant inflow and infiltration into the system which creates wastewater overflows and impacts to both the community and environment. Over the last 15 years, the City of Temple has intentionally invested in the City's wastewater system infrastructure, addressing and upgrading critical interceptors and collection lines through development and implementation of a robust capital improvement program. In addition, in 2008 the City of Temple proactively entered into a voluntary TCEQ Sanitary Sewer Overflow initiative agreement with the State of Texas agreeing to focus resources on specific maintenance activities to reduce wastewater overflows. System inspection, cleaning, and repair of deficiencies were successfully completed in accordance with the agreement, reducing the number of overflows annually but not eliminating them.

As part of a more aggressive sanitary sewer overflow (SSO) reduction initiative by the U.S. EPA, a comprehensive EPA inspection of the system was conducted in early 2017. As a result of the inspection, subsequent discussions and negotiations, the EPA issued an Administrative Order (AO) to the City of Temple in August 2018. The AO establishes required actions necessary to reduce SSO's to an acceptable level by thoroughly assessing the entire wastewater collection system, improving operational efficiencies, and completing all identified projects by September 2028. Specific milestones are established to ensure the order is followed and completed as expected by the EPA within the next 10 years. The AO does not assess a monetary penalty, however, compliance with applicable Federal regulations is required to avoid further action from the EPA.

Activities specified by the AO include development and implementation of an electronic asset management program, development of a five-year and 10-year design storm wastewater collection system model calibrated to reflect actual and existing system conditions, power source redundancy for plants and lift stations, a complete system evaluation capacity and assurance plan (SECAP), evaluation of all private non-plastic lateral lines, and completion of correcting system deficiencies as identified. Implementation of a Capacity Management Operations and Maintenance (CMOM) Plan is also anticipated.

In November of 2018, the City entered into an agreement with RJN Group to develop a SECAP and assess the Friars Creek basin. For many years, RJN has successfully worked with numerous utilities to meet required EPA deadlines through leveraged technology and local partnerships. RJN Group is on schedule to complete the SECAP and the assessment of the Friars Creek basin in December of 2019. This contract will enable the City to move forward with the next basin assessment. RJN Group will utilize industry standards for a complete and comprehensive analysis and assessment of the Bird Creek basin with activities to include assessment of approximately 595,000 linear feet of pipe, approximately 1,800 manholes and Closed-Caption Television (CCTV) will be performed and reviewed for approximately 373,000 linear feet of pipe. This assessment also includes inspection of private lateral lines as outlined in the AO.

Expected deliverables includes a prioritized analyzed rehabilitation and improvement plan for identified infiltration/inflow defect repairs and improvements for both City and privately-owned infrastructure. Recommendations for addressing privately owned infrastructure will be included to resolve possible overflow issues.

The attached proposal includes the following fees for the scope of work listed above:

Project Management and Administration	\$ 50,577
Bird Creek Assessment	<u>2,191,423</u>
Total Basic Services	<u>\$ 2,242,000</u>

The timeline for design is 460 days.

FISCAL IMPACT: The assessment of the Bird Creek wastewater basin is being funded with the issuance of the 2020 Utility Revenue Bonds. We are declaring an official intent to reimburse for this agreement. A budget adjustment will be prepared at the time of the bond sale to reimburse expenditures incurred prior to the issuance of the bonds.

Once the budget adjustment is approved, funding will be available for the professional services agreement with RJN Group of Dallas in the amount of \$2,242,000 in account 561-5400-535-6997, project 102198.

ATTACHMENTS:

[Proposal](#)
[Resolution](#)

November 11, 2019

Ms. Carrie Weir
Deputy Utility Director
City of Temple
3210 E. Avenue H
Bldg A, Suite 123
Temple, TX 76501

Subject: Bird Creek Drainage Basin Wastewater Assessment

Dear Ms. Weir:

We appreciate the opportunity to submit this proposal to perform consulting engineering services for sanitary sewer assessments within the City of Temple. The work and scope in the attached follow the necessary guidelines in complying with Temple's agreed upon Administrative Order (AO) with the Environmental Protection Agency (EPA).

Bird Creek drainage basin wastewater assessment consists of approximately 595,000 linear feet of sanitary sewer gravity mains along with asset management services for 1,800 manholes. Closed-Caption Television (CCTV) will be performed and reviewed for approximately 373,000 linear feet of sanitary sewer. Sub-consultant working with RJN on this project include **Ace Pipe Cleaning** for CCTV.

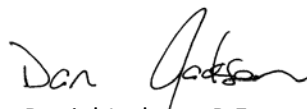
The Compensation for the assessment activities is:

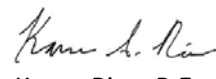
Compensation Detail	
I. Project Management and Administration	\$50,577.00
II. Condition Assessment ^{1/}	\$1,898,550.00
III. Data Management	\$72,950.00
IV. Asset Management	\$199,923.00
V. Hydraulic Model Support	\$20,000.00
Total	\$2,242,000.00
<i>^{1/} Includes Sub-Consultant Costs</i>	

The scope of services is further detailed in Attachment A, the Compensation is further broken down in Attachment B, and the project schedule is detailed in Attachment C.

If you have any questions or comments, please do not hesitate to contact us.

Respectfully Submitted,
RJN GROUP, INC.


Daniel Jackson, P.E.
Vice President


Karen Rico, P.E.
Project Manager

Enclosures: Attachment A – Scope of Services
Attachment B – Compensation
Attachment C – Proposed Schedule

CITY OF TEMPLE
BIRD CREEK DRAINAGE BASIN WASTEWATER ASSESSMENT
ATTACHMENT A: SCOPE OF SERVICES

The City of Temple has initiated a project to perform a uniform and comprehensive system wide evaluation of the wastewater collection system in compliance with the City's agreed upon Administrative Order (AO) with the Environmental Protection Agency (EPA). The steps outlined in this scope adhere to the necessary steps required within the Administrative Order. Year 2 includes a wastewater system assessment of the Bird Creek Basin for I/I reduction. The scope of this project includes condition assessment and asset management of Bird Creek basin. The Bird Creek basin assessment consists of approximately 595,000 linear feet of smoke testing, 1,800 manhole inspections, approximately 15 dyed test, and 373,000 linear feet of Closed-Caption Televised (CCTV) Inspections. Asset management consists of assessing the condition of the selected televised sewer gravity lines using an asset management software to analyze and prioritize the line repairs and replacements, and incorporate MACP manhole inspection data into an asset management software to analyze and prioritize the manhole repairs and replacements. The services are further described in the following sections:

I. Project Administration and Management

A. Project Administration

1. Meet with City staff to discuss progress of the various tasks throughout the project. Meetings will be held monthly and/or at periodically at significant project milestones with written documentation of each meeting provided.
2. Prepare schedule of work activities and maintain throughout project with monthly milestone status reports and projections provided to the City.
3. Perform general consultation with City maintenance, operations, and engineering staff.
4. Tailor Engineer's standard operating procedures to accommodate project requirements and establish internal project controls to ensure schedule, budget and quality control procedures are being maintained with monthly reports provided to the City.
5. Perform administration and coordination of sub-consultants including, but not limited to ensuring City's contracting rules for procurement and services are met, contract finalization, performance coordination, quality control and payment request verification.
6. Meet with regulatory agencies as needed throughout the project.

II. Condition Assessment

A. Manhole Inspection

1. Utilizing industry standard safety procedures and appropriate traffic control, all subsurface manhole components will be inspected. Manholes accessible by vehicle will be scanned utilizing 3D Optical Manhole Scanner technology, where applicable. The cost estimate assumes that approximately 75 percent of manholes will be scanned. An estimated 25 percent of manhole located within

CITY OF TEMPLE
BIRD CREEK DRAINAGE BASIN WASTEWATER ASSESSMENT
ATTACHMENT A: SCOPE OF SERVICES

the study will be not accessible by vehicle. These inspections will be conducted using other techniques. Inspections will be conducted according to NASSCO MACP Level 2 standards.

2. The Engineer shall notify the City of manholes that are inaccessible, not found, buried, or believed to be non-existent. The Engineer's field crew will make a reasonable effort to locate manholes as shown on the provided GIS. The effort will include up to 10 minutes of onsite investigation including a metal detector, probe, and shovel. Manholes found to be buried less than 6 inches below grade in non-paved unobstructed areas shall be uncovered and inspected. If the manhole cannot be located within 10 minutes of arriving onsite, buried in a paved area, or greater than 6 inches below grade in a non-paved area, the Engineer will be compensated at the cost of an actual manhole inspection.

B. *Public Relations and Notifications*

1. Engineer will prepare and deliver notices necessary for the performance of smoke testing. Every reasonable effort will be made to distribute notices two (2) days prior to smoke testing; however, City will allow the Engineer to distribute notices up to a minimum of one day in advance of smoke testing.
2. Engineer may distribute notices up to a maximum of fourteen (14) days prior to smoke testing. If conditions do not allow smoke testing to be performed during this period, Engineer will redistribute notices. If redistribution of smoke notices is required, testing may be performed within one (1) day of noticing.
3. The Engineer, City, City of Temple Fire Department, and City of Temple Police Departments will be notified daily of smoke testing and dyed water testing locations via email.

C. *Smoke Testing*

1. Smoke testing will be conducted using dual axial blowers. Each 12-inch diameter and smaller segment shall be isolated by sandbagging. Smoke testing lengths shall be limited to two line segments between the upstream and downstream blower locations. Smoke testing will be performed only during dry ground periods.
2. Flags shall be placed at observed smoke locations and digital images shall be captured. All defects identified by smoke testing shall be flagged and photographed. Smoke defect locations shall be recorded on sketches or by obtaining GPS coordinates. All private sector smoke defect images shall be entered into the field inspection database.
3. Main line defects and service lateral defects shall be carefully scrutinized to ensure that a conservative determination of public vs. private side defects is made. If necessary, the line shall be earmarked for television inspection.

CITY OF TEMPLE
BIRD CREEK DRAINAGE BASIN WASTEWATER ASSESSMENT
ATTACHMENT A: SCOPE OF SERVICES

D. Dyed Water Flooding

1. Dyed water flooding shall be conducted to verify the existence of inflow and infiltration sources. Dyed water flooding shall be performed at suspected storm sewer cross-connections, streams, creeks, ditches, and other ponding areas that may be contributing to inflow. Estimated leakage rates shall be provided for each positive dye test. Water for the dyed water flooding will be provided by City of Temple at no charge to the Engineer.

E. Sewer Cleaning and Television Inspection (*Ace Pipe Cleaning* to perform task)

1. Sanitary sewer lines will be cleaned in order to facilitate the televised inspection activities. Standard cleaning rates are based on three passes with a jet cleaner.
2. During cleaning operations, all sludge, debris, etc. shall be removed from the sewer and disposed of at a location provided by the City. The City shall provide water for the cleaning operation at no charge to the Engineer. All data shall be provided in digital format.
3. If light cleaning proves inadequate or tap removal/root cutting is necessary, heavy cleaning shall be recommended to the City. Lines approved for heavy cleaning shall be cleaned with mechanical cleaning equipment.
4. Television inspections shall be performed on all non-plastic line segments and line segments which show evidence of deterioration, tested positive during smoke testing, or are critical to the collection system.
5. Television inspection will be performed using high quality color equipment and coded using NASSCO's PACP standards.

- F. TV Video Review:** Engineer will review and analyze the TV Inspection data. Review of the data will consist of viewing all TV footage to ensure that NASSCO PACP standards are met, codes are applied accurately, and all sewer lines identified for TV inspection are either inspected or justification of why it was not inspected is provided.

III. Data Management

A. Data Management

1. Collect and review existing information including maps, flow records, and other pertinent information. City will provide ArcGIS updates shape files of the wastewater system. Engineer shall prepare preliminary field maps for project use from existing City shape files.
2. Update the maps as differences are found during the field investigations and provide them to the City. Updates shall include new lines, manholes, and cleanouts and will be provided electronically in the form of shapefiles to be compatible with GIS.

CITY OF TEMPLE
BIRD CREEK DRAINAGE BASIN WASTEWATER ASSESSMENT
ATTACHMENT A: SCOPE OF SERVICES

3. Data shall be recorded by field crews on Engineer's electronic forms for each specified activity. All field inspection data shall be entered into a computerized data management system from which rehabilitation recommendations shall be made. All field inspection data and photos will be provided in digital format to the City.

IV. Asset Management

Engineer will configure InfoMaster for manholes and assumes minimal changes to current InfoMaster configuration for sewer lines.

- A. *Source Defect Analysis:* At the end of the field investigation services, an engineering analysis of field survey data shall be performed to develop recommendations for prioritizing I/I source repairs.
- B. *Condition Assessment Analysis:* Engineer will utilize the InfoMaster Project, Television Inspection Data, and Manhole Inspection Data to analyze the Bird Creek Basin. An asset prioritization will be developed through condition analysis, likelihood and consequence of failure analysis, and the risk matrix. The prioritized results of the analysis will be presented in the InfoMaster software with the estimated cost of line repairs/replacements. A GIS geodatabase containing all inspection scoring, failure analysis, risk analysis, and remedial measures will be provided upon completion of the project.
- C. *Assessment Recommendations and Report:* A description of field investigations, engineering analysis, and recommended action to reduce I/I will be included in the report. Engineer shall deliver a comprehensive rehabilitation and improvement strategy as coordinated with the City for Bird Creek drainage basin.
 1. Develop rehabilitation and improvement costs for various types of infiltration/inflow defect repairs and sewer improvements for line and manhole improvement.
 2. Perform priority analysis for infiltration rehabilitation plan based on applicable rehabilitation method, material, and costs.
 3. Perform analysis for inflow rehabilitation plan based on applicable rehabilitation method, material and costs.
 4. Develop recommendations for rehabilitation of both public and private I/I sources in priority order, cost estimates by individual rehabilitation type, and estimated I/I reduction as a result of the recommendations.

Two copies of the Bird Creek Drainage Basin Wastewater Assessment report shall be submitted to the City.

CITY OF TEMPLE
BIRD CREEK DRAINAGE BASIN WASTEWATER ASSESSMENT
ATTACHMENT A: SCOPE OF SERVICES

V. Hydraulic Model Support

- A. *Hydraulic Model Support:* Engineer built a model of the wastewater system and calibrated the model for both dry and wet weather conditions under the SECAP agreement and submitted it to the City. Engineer will provide assistance and support as requested by the City for the hydraulic model. This service will be billed on a time and material basis for an estimated total cost of \$20,000.

CITY OF TEMPLE
BIRD CREEK DRAINAGE BASIN WASTEWATER ASSESSMENT
ATTACHMENT B: COMPENSATION SCHEDULE

City of Temple shall compensate RJN Group for providing the services set forth herein in accordance with the terms of the Agreement. The compensation table below reflects field services, analysis, and recommendations for condition assessment of the wastewater system in Bird Creek drainage basin. Total payment for Scope of Services described in Attachment A shall be \$2,242,000.00. Compensation shall be based on a combination of lump sum, unit costs, and time and materials as delineated below:

Activity	Quantity	Unit	Unit Cost (\$)	Total Cost (\$)
BIRD CREEK DRAINAGE BASIN WASTEWATER ASSESSMENT				
I. Project Management and Administration	1	LS	\$50,577.00	\$50,577.00
II. Condition Assessment				
Manhole Inspections	1,800	EA	\$145.00	\$261,000.00
Public Relations and Notifications	595,000	LF	\$0.05	\$29,750.00
Smoke Testing	595,000	LF	\$0.49	\$291,550.00
Dyed Water Flooding	15	EA	\$430.00	\$6,450.00
Cleaning and CCTV Inspection ^{1/}	1	LS	\$1,197,900.00	\$1,197,900.00
TV Video Review	373,000	LF	\$0.30	\$111,900.00
<i>Subtotal</i>				<u>\$1,898,550.00</u>
III. Data Management	1	LS	\$72,950.00	\$72,950.00
IV. Asset Management				
Source Defect Analysis	1	LS	\$60,000.00	\$60,000.00
Condition Assessment Analysis	1	LS	\$79,250.00	\$79,250.00
Assessment Recommendations and Report	1	LS	\$60,673.00	<u>\$60,673.00</u>
<i>Subtotal</i>				<u>\$199,923.00</u>
V. Hydraulic Model Support	Rate Table	HR	\$20,000.00	<u>\$20,000.00</u>
			Total	\$2,242,000.00

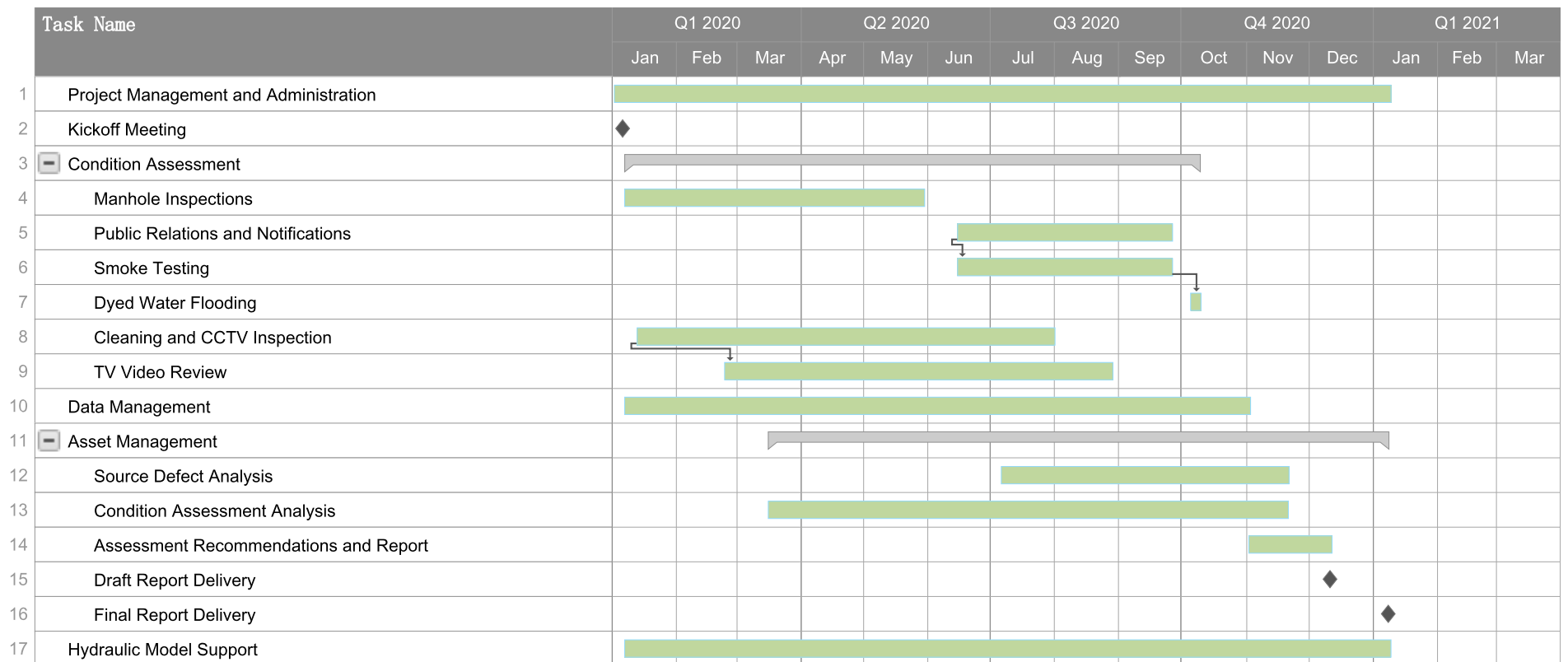
^{1/} Task to be performed by sub-consultant.

Rates are subject to annual adjustments due to salary increases. Subconsultant cost if required shall be cost plus a 10 percent markup. Other direct expenses will be invoice at actual cost.

Staff Billing Rates
November 2019

Category	Billing Rate (per Hour)
Project Manager	\$148
Hydraulic Modeling Engineer	\$195
Project Director	\$232

Temple, TX Bird Creek Drainage Basin Wastewater Assessment



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH RJN GROUP OF DALLAS, TEXAS IN AN AMOUNT NOT TO EXCEED \$2,242,000, FOR AN ASSESSMENT OF BIRD CREEK WASTEWATER BASIN, AS WELL AS DECLARE AN OFFICIAL INTENT TO REIMBURSE THE EXPENDITURES WITH THE ISSUANCE OF 2020 UTILITY REVENUE BONDS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of Temple's wastewater collection system is critical to safeguarding public health, preserving the environment, and sustaining our economy and over the last 15 years, the City of Temple has intentionally invested in the City's wastewater system infrastructure, addressing and upgrading critical interceptors and collection lines through development and implementation of a robust capital improvement program;

Whereas, in 2008 the City of Temple proactively entered into a voluntary Texas Commission on Environmental Quality Sanitary Sewer Overflow initiative agreement with the State of Texas agreeing to focus resources on specific maintenance activities to reduce wastewater overflows and system inspection, cleaning, and repair of deficiencies were successfully completed in accordance with the agreement, reducing the number of overflows annually but not eliminating them;

Whereas, the U.S. Environmental Protection Agency (EPA) conducted a comprehensive inspection of the system in early 2017 as part of a more aggressive sanitary sewer overflow (SSO) reduction initiative by the EPA, and as a result of the inspection, subsequent discussions, and negotiations, the EPA issued an Administrative Order (AO) to the City of Temple in August 2018 which established required actions necessary to reduce SSO's to an acceptable level by thoroughly assessing the entire wastewater collection system, improving operational efficiencies, and completing all identified projects by September 2028 - specific milestones are established to ensure the order is followed and completed as expected by the EPA within the next 10 years;

Whereas, the AO does not assess a monetary penalty, however, compliance with applicable Federal regulations is required to avoid further action from the EPA-- activities specified by the AO include development and implementation of an electronic asset management program, development of a 5-year and 10-year design storm wastewater collection system model calibrated to reflect actual and existing system conditions, power source redundancy for plants and lift stations, a complete system evaluation capacity and assurance plan (SECAP), evaluation of all private non-plastic lateral lines, and completion of correcting system deficiencies as identified - implementation of a Capacity Management Operations and Maintenance Plan is also anticipated;

Whereas, in November of 2018, the City entered into an agreement with RJN Group to develop a SECAP and assess the Friars Creek basin which is scheduled to be completed on time in December of 2019-- RJN has successfully worked with numerous utilities to meet required EPA deadlines;

Whereas, Staff recommends Council authorize a professional services agreement with RJN Group of Dallas, Texas in an amount not to exceed \$2,242,000 for an assessment of Bird Creek Wastewater Basin to continue the City's assessment of system conditions-- RJN Group will utilize industry standards for a complete and comprehensive analysis and assessment of the Bird Creek basin with activities to include assessment of approximately 595,000 linear feet of pipe, approximately 1800 manholes, Closed-Caption Television review of approximately 373,000 linear feet of pipe, and inspection of private lateral lines as outlined in the AO;

Whereas, the City of Temple anticipates the issuance of one or more series of obligations, the interest on which will be excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended, in order to finance all or a portion of this project;

Whereas, certain expenditures relating to the Project will be paid prior to the issuance of the Obligations and the City hereby certifies that such expenditures have not been made prior to the date of passage of this Resolution - upon issuance of the Obligations, the City desires to reimburse these prior expenditures with proceeds of the Obligations;

Whereas, Section 1.150.2 of the Treasury Regulations provides that an expenditure on the Project may not be reimbursed from Obligation proceeds unless, along with other requirements, the City declares official intent to reimburse the expenditure prior to the date that the expenditure to be reimbursed was paid;

Whereas, the construction of this project is being funded with the issuance of 2020 Utility Revenue Bonds and the City is declaring an official intent to reimburse for this contract - a budget adjustment will be prepared at the time of the bond sale to reimburse expenditures incurred prior to the issuance of the bonds which will be sold in August 2019;

Whereas, once the budget adjustment is approved, funding will be available in Account No. 561-5400-535-6997, Project No. 102198; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

Part 2: The City Council authorizes the City Manager, or her designee, after approval as to form by the City Attorney's Office, to execute a professional services agreement with RJN Group of Dallas, Texas in an amount not to exceed \$2,242,000, for an assessment of Bird Creek Wastewater Basin.

Part 3: This Resolution is a declaration of official intent by the City under Section 1.150-2 of the Treasury Regulations that it reasonably expects to reimburse the expenditures described in Part 1 with proceeds of debt to be incurred by the City, such debt to be issued on or before eighteen (18) months after the date of (i) the date the first expenditure is paid; or (ii) the date on which the property is placed in service, but in no event three years after the first expenditure is paid.

Part 4: It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **5th** day of **December**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephanie Hedrick
Deputy City Secretary

Kayla Landeros
Interim City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/05/19
Item #5(E)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing a services agreement for the purchase of on-site fuel with Allied Sales of Temple in the estimated annual amount of \$50,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

BACKGROUND: The approval of this services agreement will allow for the continued purchase and delivery of on-site fuel (gasoline and diesel) from Allied Sales for initial 21-month period from January 1, 2020, through September 30, 2021. Sammons Golf Links and the Draughton-Miller Central Texas Regional Airport each have two fuel tanks, one tank of unleaded fuel and one tank of diesel. In addition, the City has three diesel generators located at the water treatment plants that require periodic fueling.

As shown on the attached bid tabulation, three bids were received for on-site fuel services on November 14, 2019, from the following vendors: Allied Sales of Temple, Fikes Wholesale, Inc. of Temple, and Sun Coast Resources, Inc. of Houston. As allowed by Chapter 252 of the Local Government Code, the bid was advertised to be awarded to the bidder that provided the best value to the City, taking into consideration purchase price, reputation and quality of the bidder's products and services, delivery response, and quality of the proposed administrative support services. A 3-member bid evaluation committee met on November 18, 2019, to evaluate bids submitted by. The committee is unanimously recommending Allied Sales as the vendor of choice based on the outlined scoring criteria.

The purchase agreement will commence on January 1, 2020 and continue through September 30, 2021. This agreement comes with two optional two-year renewal periods, if so agreed to by both parties.

FISCAL IMPACT: Departments have budgeted for on-site fuel in several accounts in the adopted FY 2020 Budget. The estimated annual expenditure of \$50,000 is based on historical expenditures.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9915-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A SERVICES AGREEMENT WITH ALLIED SALES OF TEMPLE, TEXAS IN THE ESTIMATED ANNUAL AMOUNT OF \$50,000 FOR THE PURCHASE OF ON-SITE FUEL; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City requires on-site fuel (gasoline and diesel) services at several locations-- Sammons Golf Links and the Draughton-Miller Central Texas Regional Airport each have two fuel tanks, one tank of unleaded fuel, one tank of diesel, and the City has three diesel generators located at the water treatment plants that require periodic fueling;

Whereas, three bids were received for on-site fuel services on November 14, 2019 and as allowed by Chapter 252 of the Local Government Code, the bid was advertised to be awarded to the bidder that provided the best value to the City, taking into consideration purchase price, reputation and quality of the bidder's products and services, delivery response, and quality of the proposed administrative support services;

Whereas, Allied Sales was deemed by a bid evaluation committee to provide the best value to the City based on the outlined scoring criteria and Staff recommends Council authorize a services agreement with Allied Sales of Temple, Texas, in the estimated annual amount of \$50,000, for the purchase of on-site fuel;

Whereas, approval of this services agreement allows for the continued purchase and delivery of on-site fuel (gasoline and diesel) from Allied Sales for an initial 21-month period from January 1, 2020, through September 30, 2021 with two optional two-year renewal periods, if so agreed to by both parties;

Whereas, departments have budgeted for on-site fuel in several accounts in the adopted fiscal year 2020 Budget and based on historical expenditures, the estimated annual expenditure is \$50,000; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

Part 2: The City Council authorizes the City Manager, or her designee, after approval as to form by the City Attorney's Office, to execute a services agreement with Allied Sales of Temple, Texas, in the estimated annual amount of \$50,000, for the purchase of on-site fuel.

Part 3: It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **5th** day of **December**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephanie Hedrick
Deputy City Secretary

Kayla Landeros
Interim City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/05/19
Item #5(F)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Scott Jones, Assistant Director of Purchasing & Facility Services
Belinda Mattke, Director of Purchasing & Facility Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing a construction contract with Clark Roofing and Construction of Waco in the amount of \$60,483.23 for the re-roofing of the Jamie Hager Clements Complex, as well as declare an official intent to reimburse the expenditures with the issuance of the 2020 Combination Tax & Revenue Bonds.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Authorization of this construction contract will provide for the removal and replacement of the flat roofs of the Jamie Hager Clements Complex located at 401 North 3rd Street. due to constant roof leaks. The Jamie Hager Clements Complex houses the Municipal Court and Utility Business Office.

The proposed scope of work includes the full roof replacement, including removal of existing roofing materials and installation of new ½" mechanically attached EPS Fanfold Insulation along with 60 MIL TPO mechanically attached roofing material on all flat roofing surfaces and parapet walls with new wood nailer on perimeter of building and clad metal edging around perimeter on new TPO retro-fit drains.

This purchase is supported by a cooperative purchasing contract sourced by TIPS Contract #181101-3132 has been competitively procured and meets the statutory procurement requirements for Texas municipalities.

Clark Roofing and Construction has provided roofing repairs and replacements for the City many times over the past few years and their pricing has always been very competitive with other similar roof replacement projects. Based on previous performance, staff fully recommends using Clark Roofing and Construction for this roof replacement.

FISCAL IMPACT: This construction contract is being partially funded with the issuance of the 2020 Combination Tax & Revenue Bonds. We are declaring an official intent to reimburse for this purchase. A budget adjustment will be prepared at the time of the bond sale to reimburse expenditures incurred prior to the issuance of the bonds.

Once the budget adjustment is approved, funding to replace the roof of the Jamie Hager Clements Complex will be available in project #102056 as follows:

	<u>361-2400-519-6807</u>	<u>520-5800-535-6310</u>	<u>Total</u>
Project Budget	\$ 50,000	\$ 50,000	\$ 100,000
Encumbered/Committed to Date	-	-	-
Clark Roofing and Construction	(30,242)	(30,242)	(60,484)
Remaining Project Funds	<u>\$ 19,758</u>	<u>\$ 19,758</u>	<u>\$ 39,516</u>

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9916-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH CLARK ROOFING AND CONSTRUCTION, INC. OF WACO, TEXAS IN THE AMOUNT OF \$60,483.23, FOR THE RE-ROOFING OF THE JAMIE HAGER CLEMENTS COMPLEX, AS WELL AS DECLARE AN OFFICIAL INTENT TO REIMBURSE THE EXPENDITURES WITH THE ISSUANCE OF THE 2020 COMBINATION TAX & REVENUE BONDS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Jamie Hager Clements Complex which houses the Municipal Court and Utility Business Office is in need of roof replacement due to constant leaks;

Whereas, the proposed scope of work includes the full roof replacement, including removal of existing roofing materials and installation of new ½-inch mechanically attached EPS Fanfold Insulation along with 60 MIL TPO mechanically attached roofing material on all flat roofing surfaces and parapet walls with new wood nailer on the perimeter of the building and clad metal edging around the perimeter on new TPO retro-fit drains;

Whereas, Clark Roofing and Construction, Inc. (“Clark”) has been awarded a cooperative purchasing contract sourced by TIPS, Contract No. 181101-3132, which Staff recommends be utilized for this purchase – cooperative purchasing contracts been competitively procured and meet the statutory procurement requirements for Texas municipalities;

Whereas, Clark has provided roofing repairs and replacements for the City many times over the past few years and their pricing has always been competitive - based on previous performance, Staff recommends using Clark for this roof replacement;

Whereas, the City of Temple anticipates the issuance of one or more series of obligations, the interest on which will be excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended, in order to finance all or a portion of this project;

Whereas, certain expenditures relating to the Project will be paid prior to the issuance of the Obligations and the City hereby certifies that such expenditures have not been made prior to the date of passage of this Resolution - upon issuance of the Obligations, the City desires to reimburse these prior expenditures with proceeds of the Obligations;

Whereas, Section 1.150.2 of the Treasury Regulations provides that an expenditure on the Project may not be reimbursed from Obligation proceeds unless, along with other requirements, the City declares official intent to reimburse the expenditure prior to the date that the expenditure to be reimbursed was paid;

Whereas, the construction of this project is being partially funded with the issuance of 2020 Combination Tax & Revenue Bonds and the City is declaring an official intent to reimburse for this contract - a budget adjustment will be prepared at the time of the bond sale to reimburse expenditures incurred prior to the issuance of the bonds which will be sold in August 2020;

Whereas, once the budget adjustment is approved, funding will be available in Account No. 361-2400-519-6807 and Account No. 520-5800-535-6310, Project No. 102056; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

Part 2: The City Council authorizes the City Manager, or her designee, after approval as to form by the City Attorney's Office, to execute a construction contract with Clark Roofing and Construction, Inc. of Waco, Texas in an amount not to exceed \$60,483.23, for the re-roofing at the Jamie Hager Clements Complex.

Part 3: The City Council authorizes an amendment to the fiscal year 2020 budget, substantially in the form of the copy attached hereto as Exhibit 'A.'

Part 4: This Resolution is a declaration of official intent by the City under Section 1.150-2 of the Treasury Regulations that it reasonably expects to reimburse the expenditures described in Part 1 with proceeds of debt to be incurred by the City, such debt to be issued on or before eighteen (18) months after the date of (i) the date the first expenditure is paid; or (ii) the date on which the property is placed in service, but in no event three years after the first expenditure is paid.

Part 5: It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **5th** day of **December**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephanie Hedrick
Deputy City Secretary

Kayla Landeros
Interim City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/05/19
Item #5(G)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Scott Jones, Assistant Director of Purchasing & Facility Services
Belinda Mattke, Director of Purchasing & Facility Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing a construction contract with Clark Roofing and Construction of Waco in the amount of \$78,777.59 for the re-roofing at the Old Central Fire Station, as well as declare an official intent to reimburse the expenditures with the issuance of the 2020 Combination Tax & Revenue Bonds.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Authorization of this construction contract will provide for the removal and replacement of the flat roofs of the Old Central Fire Station located at 505 North 3rd Street. The replacements are needed due to constant roof leaks and the deterioration of existing roof systems.

The City currently leases this building to American Medical Response (AMR), the City's contracted emergency response contractor, and according to the lease agreement, the City is responsible for the maintenance and repair of the roof and foundation, HVAC systems, and structural soundness of the exterior and interior walls. Per the lease, the City will pay the upfront costs of any repair or maintenance; AMR will be responsible for reimbursing the first \$10,000 of the cost of such repair or maintenance.

The proposed scope of work includes the full roof replacement, including removal of existing roofing materials and installation of new 1-½" flat rigid insulation along with 60 MIL TPO fully adhered roofing material on all flat roofing surfaces and parapet walls with new wood nailer on perimeter of building and clad metal edging around perimeter along with new prefinished metal gutters and downspouts. The new roof system will include a 5-year workmanship warranty and a 20-year manufacturer TPO roof warranty.

The proposed purchase is supported by a cooperative purchasing contract sourced by TIPS, contract #181101-3132. Contracts awarded by TIPS have been competitively procured and meet the statutory procurement requirements for Texas municipalities.

Clark Roofing and Construction has provided roofing repairs and replacements for the City many times over the past few years and their pricing has always been very competitive with other similar roof replacement projects. Based on previous performance, staff fully recommends using Clark Roofing and Construction for this roof replacement.

FISCAL IMPACT: A budget adjustment is being presented to Council to appropriate the \$10,000 AMR reimbursement toward the roof replacement.

The remainder of this construction contract is being funded with the issuance of the 2020 Combination Tax & Revenue Bonds. We are declaring an official intent to reimburse for this purchase. A budget adjustment will be prepared at the time of the bond sale to reimburse expenditures incurred prior to the issuance of the bonds.

Once this budget adjustment is approved, funding will be available for the construction contract with Clark Roofing and Construction in the amount of \$78,778 in project #102199 as follows:

	<u>110-2400-519-6310</u>	<u>361-2400-519-6807</u>	<u>Total</u>
Project Budget	\$ 10,000	\$ 80,000	\$ 90,000
Encumbered/Committed to Date	-	-	-
Clark Roofing and Construction	(10,000)	(68,778)	(78,778)
Remaining Project Funds	\$ -	\$ 11,222	\$ 11,222

ATTACHMENTS:

[Budget Adjustment
Resolution](#)

RESOLUTION NO. 2019-9917-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH CLARK ROOFING AND CONSTRUCTION OF WACO, TEXAS IN THE AMOUNT OF \$78,777.59, FOR THE RE-ROOFING OF THE OLD CENTRAL FIRE STATION, AS WELL AS DECLARE AN OFFICIAL INTENT TO REIMBURSE THE EXPENDITURES WITH THE ISSUANCE OF THE 2020 COMBINATION TAX & REVENUE BONDS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Old Central Fire Station located at 505 North 3rd Street is in need of roof replacement due to constant roof leaks and the deterioration of existing roof system;

Whereas, the City currently leases this building to American Medical Response (AMR), the City's contracted emergency response contractor, and according to the lease agreement, the City is responsible for the maintenance and repair of the roof and foundation, HVAC systems, and structural soundness of the exterior and interior walls - per the lease, the City will pay the upfront costs of any repair or maintenance and AMR will be responsible for reimbursing the first \$10,000 of the cost of such repair or maintenance;

Whereas, the proposed scope of work includes the full roof replacement, including removal of existing roofing materials, and installation of new 1-1/2-inch flat rigid insulation along with 60 MIL TPO fully adhered roofing material on all flat roofing surfaces and parapet walls with new wood nailer on the perimeter of the building and clad metal edging around the perimeter along with new prefinished metal gutters and downspouts - the new roof system will include a 5-year workmanship warranty and a 20-year manufacturer TPO roof warranty;

Whereas, Clark Roofing and Construction, Inc. ("Clark") has been awarded a cooperative purchasing contract sourced by TIPS, Contract No. 181101-3132, which Staff recommends be utilized for this purchase - contracts awarded through cooperative purchasing contracts have been competitively procured and meet the statutory procurement requirements for Texas municipalities;

Whereas, Clark has provided roofing repairs and replacements for the City many times over the past few years and their pricing has always been competitive - based on previous performance, Staff recommends using Clark for this roof replacement;

Whereas, the City of Temple anticipates the issuance of one or more series of obligations, the interest on which will be excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended, in order to finance all or a portion of this project;

Whereas, certain expenditures relating to the Project will be paid prior to the issuance of the Obligations and the City hereby certifies that such expenditures have not been made prior to the date of passage of this Resolution - upon issuance of the Obligations, the City desires to reimburse these prior expenditures with proceeds of the Obligations;

Whereas, Section 1.150.2 of the Treasury Regulations provides that an expenditure on the Project may not be reimbursed from Obligation proceeds unless, along with other requirements, the City declares official intent to reimburse the expenditure prior to the date that the expenditure to be reimbursed was paid;

Whereas, the construction of this project is being funded with the issuance of 2020 Combination Tax & Revenue Bonds and the City is declaring an official intent to reimburse for this contract - a budget adjustment will be prepared at the time of the bond sale to reimburse expenditures incurred prior to the issuance of the bonds which will be sold in August 2020;

Whereas, funds are available for this project, but an amendment to the fiscal year 2020 budget needs to be approved to transfer the funds to Account No. 110-2400-519-6310 and Account No. 361-2400-519-6807, Project No. 102199, with a \$10,000 project reimbursement being paid by AMR upon completion of the project; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

Part 2: The City Council authorizes the City Manager, or her designee, after approval as to form by the City Attorney's Office, to execute a construction contract with Clark Roofing and Construction, Inc. of Waco, Texas in an amount not to exceed \$78,777.59, for the re-roofing at the Old Central Fire Station.

Part 3: The City Council authorizes an amendment to the fiscal year 2020 budget, substantially in the form of the copy attached hereto as Exhibit 'A.'

Part 4: This Resolution is a declaration of official intent by the City under Section 1.150-2 of the Treasury Regulations that it reasonably expects to reimburse the expenditures described in Part 1 with proceeds of debt to be incurred by the City, such debt to be issued on or before eighteen (18) months after the date of (i) the date the first expenditure is paid; or (ii) the date on which the property is placed in service, but in no event three years after the first expenditure is paid.

Part 5: It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 5th day of **December**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephanie Hedrick
Deputy City Secretary

Kayla Landeros
Interim City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/05/19
Item #5(H)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Buford Craig, Director of Transform Temple
Belinda Mattke, Director of Purchasing & Facility Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing a CDBG-funded demolition contract for residential structures with Garrett Demolition, Inc. of Burleson, in the amount of \$55,573.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Included in the City's Community Development Block Grant (CDBG) Action Plan is funding for demolition of structures, with the focus on eliminating spot blight. Council's approval of this demolition contract will provide for the demolition of eight residential structures.

An invitation to bid was released on October 29, 2019, eight demolitions: (1) five residential demolitions with no asbestos abatement and (2) three residential demolitions that include asbestos abatements. As shown on the attached bid tabulation, on November 19, 2019, six bids were received for the demolition of the following eight residential structures and/or accessory structures ranging from \$55,573 to \$109,940:

814 East Avenue B	1210 South 5 th Street
818 East Avenue B	901 South 16 th Street
810 West Avenue F	515 South 18 th Street
715 South 15 th Street	1102 South 24 th Street

The low bidder was Garrett Demolition, Inc. (Garrett). Garrett has previously performed demolitions for the City, and Staff found them to be a responsive and responsible vendor. Accordingly, staff recommends award of the demolition contract to Garrett. The work associated with these contracts will be completed within 30 days of the notice to proceed that will be executed after execution of the demolition contracts.

FISCAL IMPACT: Funding in the amount of \$55,573 for the demolition contracts with Garrett Demolition, Inc. is available in the Community Development Block Grant Demolition/Special Project, account 260-6100-571-2698.

ATTACHMENTS:

[Bid Tabulations](#)
[Resolution](#)

Bid Tabulation
on November 19, 2019 at 11:15 am
Demolition and Asbestos Abatement of 8 Residential Structures (CDBG Funded)
Bid# 61-02-20

Description	Bidders					
	American Abatement, LLC San Antonio, TX 210-408-8131	Garrett Demolition, Inc Burleson, TX 817-426-0082	AAR, Inc Liberty Hill, TX 512-778-6800	CCGMG, LLC Series B Dallas, TX 469-324-7770	Total Demolition, Inc West, TX 512-247-9485	R.T. Schneider Construction Company, Ltd. Belton, TX 254-933-2529
814 E Avenue B	\$6,250.00	\$798.00	\$2,500.00	\$12,733.00	\$5,290.00	\$7,200.00
818 E Avenue B	\$20,916.00	\$15,809.00	\$19,700.00	\$18,824.00	\$26,180.00	\$22,980.00
810 W Avenue F	\$8,125.00	\$4,793.00	\$8,400.00	\$10,115.00	\$5,920.00	\$12,380.00
715 S 15th Street	\$12,500.00	\$6,138.00	\$9,600.00	\$10,115.00	\$9,140.00	\$13,480.00
1210 S 5th Street	\$9,375.00	\$5,070.00	\$7,800.00	\$7,975.00	\$11,550.00	\$12,800.00
901 S 16th Street	\$6,537.00	\$6,279.00	\$7,600.00	\$10,830.00	\$8,020.00	\$8,750.00
515 S 18th Street	\$21,846.00	\$11,821.00	\$13,900.00	\$26,000.00	\$17,680.00	\$20,400.00
1102 S 24th Street	\$6,250.00	\$4,865.00	\$11,500.00	\$7,900.00	\$10,400.00	\$11,500.00
Total Bid Price	\$91,799.00	\$55,573.00	\$81,000.00	\$104,492.00	\$94,180.00	\$109,490.00
Exceptions	No	No	No	No	No	No
Bid Bond	Yes	Yes	Yes	Yes	Yes	Yes
Bond Requirement Affidavit	Yes	Yes	Yes	Yes	Yes	Yes
Credit Check Authorization	Yes	Yes	Yes	No	Yes	Yes
CDBG Statement of Bidder's Qualifications	Yes	Yes	Yes	Yes	Yes	Yes
CDBG Contractor Certifications	Yes	Yes	Yes	Yes	Yes	Yes
CDBG Noncollusion	Yes	Yes	Yes	Yes	Yes	Yes
Addendums #1	No	Yes	Yes	Yes	Yes	Yes
Addendums #2	No	Yes	Yes	Yes	Yes	Yes

RESOLUTION NO. 2019-9918-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A COMMUNITY DEVELOPMENT BLOCK GRANT FUNDED DEMOLITION CONTRACT WITH GARRETT DEMOLITION, INC. OF BURLESON, TEXAS IN THE AMOUNT OF \$55,573, FOR THE DEMOLITION OF EIGHT RESIDENTIAL STRUCTURES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City released an Invitation to Bid on October 29, 2019, for the demolition of eight residential structures, which included five demolitions with no asbestos abatement, and three demolitions that included asbestos abatement on the following addresses:

814 E Avenue B	1210 S 5 th Street
818 E Avenue B	901 S 16 th Street
810 W Avenue F	515 S 18 th Street
715 S 15 th Street	1102 S 24 th Street

Whereas, on November 19, 2019, the City received six bids for the demolition of the eight residential structures and/or accessory structures;

Whereas, the low bidder was Garrett Demolition, Inc. (Garrett) of Burleson, Texas - Garrett has previously performed demolitions for the City, and Staff has found them to be a responsive and responsible vendor;

Whereas, Staff recommends Council authorize a Community Development Block Grant funded demolition contract with Garrett Demolition, Inc. of Burleson, Texas in the amount of \$55,573, for the demolition of eight residential structures;

Whereas, funding for the demolitions is available in the Community Development Block Grant Demolition/Special Project Account No. 260-6100-571-2698;

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

Part 2: The City Council authorizes the City Manager, or her designee, after approval as to form by the City Attorney's Office, to execute a Community Development Block Grant funded demolition contract with Garrett Demolition, Inc. of Burleson, Texas in the amount of \$55,573, for the demolition of eight residential structures and/or accessory structures as identified in the City's Invitation to Bid, released October 29, 2019, at the following addresses:

814 E Avenue B
818 E Avenue B
810 W Avenue F
715 S 15th Street

1210 S 5th Street
901 S 16th Street
515 S 18th Street
1102 S 24th Street

Part 3: It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **5th** day of **December**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephanie Hedrick
Deputy City Secretary

Kayla Landeros
Interim City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/05/19
Item #5(I)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Jim Tobin, Interim Chief of Police
Charla Thomas, Assistant City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a Memorandum of Understanding with the Federal Bureau of Investigations for participation of Temple Police Department personnel in the Austin Safe Streets Task Force and execution of a related Cost Reimbursement Agreement for reimbursement of task force related overtime expenses.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The mission of the Federal Bureau of Investigation's (FBI) Austin Safe Streets Task Force (SSTF) is to identify and target for prosecution criminal enterprise groups responsible for drug trafficking, money laundering, alien smuggling, crimes of violence such as murder and aggravated assault, robbery, and violent street gangs, as well as to intensely focus on the apprehension of dangerous fugitives where there is or may be a federal investigative interest. The SSTF will enhance the effectiveness of federal, state, and local law enforcement resources through a well-coordinated initiative seeking the most effective investigative and prosecutive avenues by which to convict and incarcerate dangerous offenders.

Overall management of the SSTF is the shared responsibility of the participating agency heads and/or their designees. The Special Agent in Charge (SAC) of the FBI San Antonio Division will designate a Supervisory Special Agent (SSTF Supervisor) who may designate a Special Agent to serve as the SSTF Coordinator. Either the SSTF Supervisor or SSTF Coordinator will oversee all day-to-day operational and investigative matters pertaining to the SSTF. SSTF personnel will report to his/her respective agency for personnel and administrative matters. Temple Police Department (TPD) officers assigned to the SSTF will continue to be supervised by TPD supervisory personnel and will abide by the TPD and City of Temple Policies and Procedures. There is currently one officer prospectively assigned on a full-time basis to the SSTF.

The head of each participating agency will determine the resources, including personnel, to be dedicated to the SSTF, as well as the continued dedication of those resources and will be fully apprised of all investigative developments by his or her subordinates.

Employees assigned to the SSTF may be permitted to drive FBI owned or leased vehicles for official SSTF business, which would require the execution of a separate Vehicle Use Agreement, and which shall only be used for SSTF business. The City will be responsible for the pay, overtime, leave, benefits, performance appraisals, and other personnel matters of all employees detailed to the SSTF. Subject to federal funding availability and legislative authorization, the FBI will reimburse the cost of overtime worked by City officer(s) assigned full- time to the SSTF, provided overtime expenses were incurred as a result of SSTF related duties, and subject to the provisions and limitations set forth in a separate Cost Reimbursement Agreement to be executed between the FBI and the City.

Staff recommends Council authorize a Memorandum of Understanding with the Federal Bureau of Investigation for participation in the Austin Safe Streets Task Force and execute a separate Cost Reimbursement Agreement for the reimbursement of task force related overtime expenses.

FISCAL IMPACT: There is no funding requirement for this MOU and all costs associated with a Temple Police Department officer's participation in the FBI task force have been included in the fiscal year 2020 Operating Budget. An officer's task force related overtime expenses are eligible for reimbursement, subject to federal funding availability, and the execution of a Cost Reimbursement Agreement with the FBI.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9919-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A MEMORANDUM OF UNDERSTANDING WITH THE FEDERAL BUREAU OF INVESTIGATIONS FOR PARTICIPATION OF TEMPLE POLICE DEPARTMENT PERSONNEL IN THE AUSTIN SAFE STREETS TASK FORCE AND EXECUTION OF A RELATED COST REIMBURSEMENT AGREEMENT FOR REIMBURSEMENT OF TASK FORCE RELATED OVERTIME EXPENSES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the mission of the Federal Bureau of Investigation's (FBI) Austin Safe Streets Task Force (SSTF) is to identify and target for prosecution criminal enterprise groups responsible for drug trafficking, money laundering, alien smuggling, crimes of violence such as murder and aggravated assault, robbery, and violent street gangs, as well as to intensely focus on the apprehension of dangerous fugitives where there is or may be a federal investigative interest - the SSTF will enhance the effectiveness of federal, state, and local law enforcement resources through a well-coordinated initiative seeking the most effective investigative and prosecutive avenues by which to convict and incarcerate dangerous offenders;

Whereas, overall management of the SSTF is the shared responsibility of the participating agency heads and/or their designees - the Special Agent in Charge (SAC) of the FBI San Antonio Division will designate a Supervisory Special Agent (SSTF Supervisor) who may designate a Special Agent to serve as the SSTF Coordinator—either the SSTF Supervisor or SSTF Coordinator will oversee all day-to-day operational and investigative matters pertaining to the SSTF;

Whereas, Temple Police Department (TPD) officers assigned to the SSTF will continue to be supervised by TPD supervisory personnel, will report to his/her TPD supervisor for personnel and administrative matters, and will abide by the TPD and City of Temple Policies and Procedures - there is currently one officer prospectively assigned on a full-time basis to the SSTF;

Whereas, the head of each participating agency will determine the resources, including personnel, to be dedicated to the SSTF, as well as the continued dedication of those resources and will be fully apprised of all investigative developments by his or her subordinates;

Whereas, employees assigned to the SSTF may be permitted to drive FBI owned or leased vehicles for official SSTF business, which would require the execution of a separate Vehicle Use Agreement, and which shall only be used for SSTF business;

Whereas, the City will be responsible for the pay, overtime, leave, benefits, performance appraisals, and other personnel matters of all employees detailed to the SSTF-- subject to federal funding availability and legislative authorization, the FBI will reimburse the cost of overtime worked by City officer(s) assigned full- time to the SSTF, provided overtime expenses were incurred as a result of SSTF related duties, and subject to the provisions and imitations set forth in a separate Cost Reimbursement Agreement to be executed between the FBI and the City;

Whereas, Staff recommends Council authorize a Memorandum of Understanding with the Federal Bureau of Investigations for participation of Temple Police Department personnel in the Austin Safe Streets Task Force and execution of a related Cost Reimbursement Agreement for reimbursement of task force related overtime expenses;

Whereas, there is no funding requirement for this agreement and all costs associated with the Police Department's Task Force have been included in the fiscal year 2020 Operating Budget - an officer's task force related overtime expenses are eligible for reimbursement, subject to federal funding availability, and the execution of a Cost Reimbursement Agreement with the FBI; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

Part 2: The City Council authorizes the City Manager, or his designee, after approval as to form by the City Attorney's office, to execute a Memorandum of Understanding with the Federal Bureau of Investigations related Cost Reimbursement Agreement for participation of Temple Police Department personnel in the Austin Safe Streets Task Force and reimbursement of task force related overtime expenses.

Part 3: It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **5th** day of **December**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephanie Hedrick
Deputy City Secretary

Kayla Landeros
Interim City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/05/19
Item #5(J)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Don Bond, P.E., CFM, Director of Public Works
Richard Wilson, P.E., CFM, City Engineer

ITEM DESCRIPTION: Consider adopting a resolution authorizing contract amendment #2 to a professional services agreement with Kasberg, Patrick & Associates, LP, for environmental planning services for Phase 4 of the Outer Loop, in the amount of \$133,000.

STAFF RECOMMENDATION: Adopt resolution as presented in Item Description.

ITEM SUMMARY: The Outer Loop south of FM 2305 is a critical north-south arterial that will connect the Adams Avenue growth corridor to IH 35. Phase 3A at Adams Avenue has recently been constructed and phase (3B) to extend the Outer Loop Just south of Jupiter Drive is now under construction. Continuing southward, Phase 4 will consist of 6,100 linear feet of arterial roadway between Jupiter Road and just south of the future connection of Poison Oak Road (see project map).

On October 19, 2017, Council authorized a contract with KPA, in the amount of \$884,200 for professional services required to design and bid the proposed improvements to Phase 4.

On August 16, 2018, Council authorized an application for federal funding, to include a 20% match in future funding for selected projects, through the Killeen Temple Metropolitan Planning Organization (KTMPPO) Category 7 program. On January 16, 2019, KTMPPO allocated available Category 7 federal funds for Outer Loop West Phase 1, internally referred to as Phase 4 of the Outer Loop.

On May 15, 2019, the City authorized Contract Amendment #1 with KPA in the amount of \$9,900 for the Environmental Investigation to determine the environmental scope and to prepare the Classification Letter required by the National Environmental Policy Act (NEPA). On August 1, 2019, TxDOT Environmental Affairs approved the Classification Letter request for an Environmental Assessment (EA).

This contract amendment includes services to complete the required EA, including the following tasks and costs:

Preparation of EA documents and FONSI	\$ 16,000
Archeological Coordination with TxDOT	2,000
Historical Project Coordination, Survey & Report	9,000
Biological Evaluation and HazMat ISA	5,000
WOTUS Delineation	10,000
Section 4(f), 6(f) and Community Impact Analysis	12,000
Indirect, Cumulative, Noise & Air Quality Analysis	35,000
Public Involvement Meeting & Hearing	29,000
Project Management & Progress Reports	<u>15,000</u>
TOTAL	<u>\$ 133,000</u>

See the engineer's proposal for further details. The current OPC is \$14,500,000 for roadway and utilities with a projected bid date in FY 2021.

FISCAL IMPACT: Funding for Contract Amendment #2 for environmental planning services to the professional services agreement with Kasberg, Patrick & Associates, LP for Phase 4 of the Outer Loop, in the amount of \$133,000 is available in project 101714, as follows:

	<u>365-3400-531-6813</u>	<u>561-5200-535-6813</u>	<u>Total</u>
Project Budget	\$ 2,400,000	\$ 84,000	\$ 2,484,000
Encumbered/Committed to Date	(904,800)	(84,000)	(988,800)
KPA Contract Amendment #2	(133,000)	-	(133,000)
Remaining Project Funds	<u>\$ 1,362,200</u>	<u>\$ -</u>	<u>\$ 1,362,200</u>

The construction of Phase 4 of the Outer Loop will be funded with a combination of grant funding in the amount of \$8,238,558 and City funding. The FY 2020 Business Plan includes funding for the City's share of construction with Certificate of Obligation Bonds in the amount of \$8,700,000 in FY 2021.

ATTACHMENTS:

[Engineer's Proposal](#)
[Contract Amendment](#)
[Project Map](#)
[Resolution](#)



KASBERG, PATRICK & ASSOCIATES, LP
CONSULTING ENGINEERS
Texas Firm F-510

Temple
One South Main Street
Temple, Texas 76501
(254) 773-3731

RICK N. KASBERG, P.E.
R. DAVID PATRICK, P.E., CFM
THOMAS D. VALLE, P.E.
GINGER R. TOLBERT, P.E.
ALVIN R. "TRAE" SUTTON, III, P.E., CFM
JOHN A. SIMCIK, P.E., CFM

Georgetown
1008 South Main Street
Georgetown, Texas 78626
(512) 819-9478

November 18, 2019

Mr. Ed Kolacki
3210 E. Avenue H
Building A
Temple, Texas 76501

RE: **Supplement for Continued Environmental Planning Services – Outer Loop Phase IV**
Outer Loop West Project TxDOT EA
Temple, Bell County, Texas

Dear Mr. Kolacki:

At the request of the City of Temple, we are submitting this proposal for the above referenced project. This project will perform the following Environmental Resources Services as it relates to the above-referenced site/project within the Texas Department of Transportation (TxDOT) Environmental Assessment (EA) under National Environmental Policy Act (NEPA) for Outer Loop West Phase I and Phase II project.

A. PROJECT INFORMATION

The City of Temple is pursuing TXDOT/Federal funding for a proposed widening of Old Waco Road and establishment of new Right-of-Way for the Outer Loop West Phase I and Phase II in Temple, Bell County, Texas. The proposed road facility, with alternatives, is depicted on the attached Proposed Project Location Map.

Prior TxDOT involvement, as part of Task 1, included the preparation of the required Scope Development Tool (SDT) and Classification Letter for submittal to the TxDOT Waco District. The TxDOT Environmental Affairs (ENV) approved the Classification Letter on August 1, 2019, which agreed with the request to consider the Outer Loop West Phases I and II project to be classified as an EA instead of an Environmental Impact Statement (EIS).

This supplemental proposal includes the services to complete the necessary field studies and analyses, prepare required forms, draft EA, final EA, Finding of No Significant Impacts (FONSI) documents, assist with administrative review, and assist with preparation and attending public meetings/hearings. Please note that additional services may be required by TxDOT as the studies and analyses are being conducted, which findings could result in additional efforts, as appropriate.

The KPA Team will also complete the required forms and upload the appropriate information in TxDOT's Environmental Compliance Oversight System, if provided access by the District.

KPA assumes that the City of Temple will secure right-of-entry, as required, to the project alignment to perform the environmental studies detailed below.

B. SCOPE OF SERVICES

The proposed services consist of the following tasks and begin with Task 2 as Task 1 has already been performed:

Task 2: TxDOT Environmental Assessment Preparation (Scoping Forms, Draft EA, Final EA, Agency Correspondence, Preparation of Exhibits, Compilation of the Public Involvement, Administrative Completeness Review, and FONSI Letter)

The KPA Team will prepare an EA in general accordance with NEPA of 1969 (P.L. 91-190), as amended; Council on Environmental Quality (CEQ), Guideline Title 40 CFR 1500-1508; 23 CFR 771 and the under the NEPA Assignment Memorandum of Understanding with the Federal Highway Administration, and applicable Federal, state, and local regulations. Particular attention will be directed to the EA definition..."a concise public document that serves to: briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact" (NEPA Part 1508.9). To prepare the EA, the KPA Team will prepare appropriate technical studies, which will be used to capture the baseline conditions and potential impacts; the information associated with these studies will be referenced within the EA. These technical studies are discussed in the subsequent tasks.

To prepare the EA, the KPA Team will utilize the EA Outline provided by TxDOT, effective January 2019. Prior to moving forward, the KPA Team will develop a purpose and need statement, which will be reviewed by the District prior to moving forward on drafting the remainder of the EA. Upon approval of the Purpose and Need, the KPA Team will draft and submit consultation letters. Consultation letters will not be mailed, emailed, etc. until approval from TxDOT. Comments received during consultation, including comments received during the public meetings and public hearings will be documented within the EA, under Chapters 6 and 7.

The KPA Team will prepare four versions of the EA: Preliminary Draft EA, Draft EA, Preliminary Final EA, and Final EA. Each version will be reviewed by TxDOT. The Draft EA will be utilized for public comment and the public hearing. Comments received during the public hearing will be incorporated into the Preliminary Final EA prior to finalizing the EA and submission of the Administrative Record. Additionally, the KPA Team will prepare a Draft Finding of No Significant Impact (FONSI) for submission with the Draft EA. The Draft FONSI is not for use during the public comment period.

Deliverables:

The KPA Team will provide a Draft Purpose and Need within 15 business days upon Notice to Proceed. Upon receipt of consolidated comments, the KPA Team will provide a revised draft purpose and need to TxDOT within 5 business days of reconciliation of comments. Once consolidated comments are received from TxDOT, the KPA Team will provide a response to the comments and request approval prior to proceeding with the Preliminary Draft EA.

The Preliminary Draft EA will be provided for review, 20 business days upon completion of the technical reports and completion of agency coordination. It is anticipated that the client, District as well as ENV will review the Preliminary Draft EA. Upon receipt of consolidated comments from reviewers, utilizing TxDOT's comment matrix, the KPA Team will provide a response to the matrix within 10-15 business

days. Once the comments have been reconciled, the KPA Team will provide the Draft EA for use during the Public Comment period. Once the public comment period has been completed, the KPA Team will compile comments and incorporate those comments and prepare the Preliminary Final EA within 15 business days. It is anticipated that the City of Temple, District as well as ENV will review the Preliminary Final EA. Upon receipt of consolidated comments from reviewers, utilizing TxDOT's comment matrix, the KPA Team will provide a response to the matrix within 5-10 business days. Upon approval of the responses, the KPA Team will prepare the Final EA within 5 business days and submit the Administrative Record within 30 calendar days.

Concurrently, the KPA Team will provide a Draft FONSI with the Draft EA for review. It is anticipated that the client, District as well as ENV will review the FONSI. The KPA Team will revise the Draft FONSI, upon reconciliation of consolidated comments and will be provided with the Final EA.

Task-Specific Limitations

The EA shall conclude that either a Finding of No Significant Impact (FONSI) is justified, or that an Environmental Impact Statement (EIS) is required. The EA shall also consider conditions during project construction and after project construction completion. the KPA Team will notify the client as soon as possible if it is believed that a FONSI cannot be reached.

See Task-Specific Limitations within each Task listed below.

Task 3: Archeological Coordination

Cultural Resources comprise both historic structures and archaeological materials; therefore, cultural resources can vary a great deal and may include such diverse items as buried artifacts of previous cultures and historic buildings or objects. In Texas, cultural resources are protected under the federal National Historic Preservation Act (NHPA) of 1966, as amended, and the state Antiquities Code of Texas (ACT). The Texas Historical Commission (THC) is responsible for enforcing cultural resource compliance in Texas.

Under the Antiquities Code of Texas, projects that are undertaken by a "political subdivision" require THC coordination if the project affects a cumulative area larger than five acres or disturbs a cumulative area of more than 5,000 cubic yards, whichever measure is triggered first, or if the project is inside a designated historic district or recorded archeological site. A "political subdivision" is defined as a local governmental entity created and operating under the laws of this state, including a city, county, school district, or special district created under Article III, Section 52(b)(1) or (2), or Article XVI, Section 59, of the Texas Constitution. Projects undertaken by State agencies or public universities are not limited by size and require THC coordination prior to any ground disturbances. The professional archeologist conducting the survey is required to receive a permit before any archeological investigations may proceed.

As federal monies will be part of this roadway project, compliance with Section 106 of the NHPA is required.

Agency Coordination with TxDOT and Texas Historical Commission

A KPA Team cultural resources specialist will perform a desktop analysis of the subject area with emphasis on the Archeological (Restricted) Sites Atlas (database) maintained by the THC and the Texas Archeological Research Laboratory (TARL). The effort will identify previously recorded archeological and historical resources, as well as previous cultural resource investigations, within 0.5-kilometer radius of the subject area. Mapped soil types within the subject area will be examined. Soil types can be an indicator of probability of archaeological resources. Additionally, available historic maps will be reviewed for potential historic structures or objects and see the change over time on a parcel. This task does not include a formal archaeological survey, which would require a permit. Based on the results of the desktop, a short letter report will be produced to coordinate with the TxDOT and THC. The letter

will include the KPA Team's professional opinion on whether a survey is recommended. The deliverable will be the short letter report that will be presented to the client for review prior to agency coordination. Because the project scope has already performed archeological surveys along the majority of the corridor to comply with Antiquities Code of Texas, it is anticipated that little to no surveys will be required from TxDOT as part of the project. In addition, TxDOT has confirmed that the two alternatives will require archeological background studies. After TxDOT's review of the background studies, should fieldwork be required, a supplemental change order will be prepared to perform those archeological surveys. While no archeological fieldwork is anticipated for this project, TxDOT or THC may require it.

TxDOT and THC will have 30-45 calendar days to complete their review because two agencies are involved. It is important to note that the THC will have final determination on whether a survey is necessary or not.

Task-Specific Limitations

The cultural resource services described above assume no fieldwork will be performed. This scope of work does not include construction monitoring, archeological survey, eligibility testing, or data recovery levels of effort, and should such efforts be required by regulatory agencies, a separate proposal would be prepared by the KPA Team at the City's request. This scope of work also does not include historic studies, records search, or archival work for historic-age archeological resources.

Task 4: Project Coordination Request (PCR) for Historic Resources

Because the project presents the potential to impact sensitive property types (historic road corridors, farmsteads), the proposed scope of work follows TxDOT Historical Studies Review Procedures under TxDOT's Section 106 of the National Historic Preservation Act (NHPA) Programmatic Agreement (Section 106 PA), Appendix 4—Minimal Potential to Affect Historic Properties to review and document historic properties in fulfillment of Section 106 compliance efforts. The first step in this process is to complete a Project Coordination Request (PCR) for submission to the Historic Studies Branch of ENV. The following tasks are proposed for the PCR for non-archeological standing structures within the project area for the road facility:

- File search for previously identified historic properties within a quarter-mile project study area. Search will occur at Texas Historical Commission (THC) State Historic Preservation Office (SHPO) offices and via their online database, Texas Sites Atlas. Designated properties to include resources previously listed as National Historic Landmarks (NHL), National Register of Historic Places (NRHP) individual properties and/or historic districts, Recorded Texas Historic Landmarks (RTHLs), State Antiquities Landmarks (SALs), and Official Texas Historic Markers (OTHM).
- Limited field survey of project area as presented in the project schematic drawing(s). The field survey will be within the project area for the proposed road from the public right-of-way (ROW) along Old Waco Road or along the proposed alignment corridors in the new ROW.
- Development of a Historical Studies Project Coordination Request form (template dated August 2019) with supporting documentation (maps, photographs, schematic drawings, etc.).
- Submission to Waco District and ENV for review and comment. After comment resolution has been completed, final documents will be submitted for coordination, approval, and guidance.

Task 5: Historic Resources Survey (Reconnaissance-Level) and Report

It is anticipated that, based on the findings of the PCR, a historic resources survey of parcels within, and directly abutting, the area of potential effects (APE) will be requested by TxDOT ENV per the May 2019 Historic Studies Review Procedures guidance. The development of a research design will be the next step in preparation for a survey of the project area for the roadway project. The purpose of the research design will be to determine the appropriate level of effort for the historic resources survey fieldwork and reporting. After acceptance of the PCR, the KPA Team will develop a Research Design per TxDOT Documentation Standard for Preparing a Historic Resources Research Design with supporting documentation. The research design will be prepared in accordance with the documentation standards and utilize the TxDOT template.

Following acceptance of the Research Design by TxDOT, a Historic Resources Survey Report will be prepared in consultation with the City of Temple, TxDOT, and the THC. The Survey Report will be prepared in accordance with the documentation standards and utilize the TxDOT template.

The scope of work for a historic resources survey for non-archeological standing structures within the project area for the roadway project will be refined based on the results of the research design. It is anticipated that a reconnaissance-level field survey of project area will be required. The survey will encompass the project area and adjacent parcels, as presented in the project schematic drawing(s). The field survey will be from the public ROW and/or from the proposed corridor, as necessary. If right-of-entry (ROE) is required to survey properties within the APE, the KPA Team will request ROE be facilitated by the City of Temple. The cut-off date for historic-age resources will be coordinated with TxDOT, THC and the City of Temple, but for the purposes of this cost proposal it is assumed to be 45 years from the project let date, or those resources constructed prior to 1976. Project deliverables will be prepared according to the TxDOT Documentation Standard for Preparing a Historic Resources Survey Report (HRSR). The cost proposal is based on submission of a Draft Report for TxDOT ENV CRM review and comment and then submission of a Final Report. The efforts will follow the TxDOT Historical Studies Review Procedures (May 2019).

Schedule for Historic Resources Tasks 4 and 5

For standing structures, the following information is required prior to the initiation of project tasks for the PCR.

- Project CSJ number
- Target ENV clearance date
- Target project letting date
- If the project is subject to Federal permitting
- Detailed project description
- Delineation of existing and proposed ROW
- Amount of any new ROW, temporary, and permanent easements
- Up-to-date project schematics showing project extents and areas of new ROW, temporary, and/or permanent easements. If alternatives are being considered, those should also be delineated on the project schematics.

Deliverables:

The PCR will be submitted to the City for review. Revisions received from the City will be incorporated into a Draft PCR to be submitted for review by TxDOT. Based on the findings of the PCR and recommendations of TxDOT ENV, a Research Design will be completed within business 15 days of a

Notice to Proceed from the client. We anticipate TxDOT will have up to 30 calendar days to review and approve the Research Design. After acceptance of the Research Design, fieldwork for standing structures will commence within 15 business days. The Draft HRSR will be submitted to the client for review within 30 business days from completion of fieldwork. Once the client's revisions have been incorporated into the draft report, the final document will be submitted to TxDOT and the THC for review and concurrence. The state agencies will have up to 30 calendar days to review and approve the final Historic Resources Survey Report.

Task-Specific Limitations

The cultural resource services described above assume approximately two days of fieldwork for the KPA Team cultural resources staff for the PCR and up to three days of fieldwork for the HRSR. No intensive historic studies, architectural surveys (beyond a reconnaissance-level survey), or archival/deed research tasks are part of this effort, and if required, a separate scope and fee will be provided to the City at their request. This scope of services covers one round of comments from agencies (THC/TxDOT) on PCR, Research Design, and HRSR deliverables. Further comment resolution may incur additional fees.

Task 6: Biological Evaluation Forms, Tier I Form, and Supporting Documentation

The TxDOT Biological Evaluation (BE) Form and Tier I Form will be prepared. To prepare the forms, a site visit will be conducted by a KPA Team Natural Resource Specialist who will assess the project route for potential habitat suitability as well view the vegetation to determine if a discrepancy between observed habitat versus the information provided in the Texas Ecosystem Analytical Mapper is present. Supporting documentation will include results of database searches for US Fish and Wildlife (USFWS) Threatened and Endangered Species List and Texas Parks and Wildlife Department Threatened, Endangered, and Species of Greatest Conservation Need List for Bell County. Additional effort includes reviewing topographic maps, aerial photographs, USFWS Critical Habitat maps, Ecological Mapping System of Texas and Natural Diversity Database. Additional maps may be required depending on the results of the database searches.

Deliverables:

The KPA Team will provide draft Biological Evaluation and Tier I forms, complete with required appendices for review by the client within 40 business days upon NTP. Upon receipt of consolidated comments, the KPA Team will provide a revised draft and comment matrix to TxDOT within 5 business days of reconciliation of comments. Once consolidated comments are received from TxDOT, the KPA Team will provide a response to the comments and request approval prior to providing a final document for approval and use within the EA. The response to comments will be provided within 5 business days upon receipt of comments and final document will be provided within 2 days upon approval of revisions/responses.

Task 7: Hazardous Materials Initial Site Assessment (ISA)

As a Phase I Environmental Site Assessment (ESA) has already been completed for the proposed project Phase I and Phase II alignment; the information presented within the ESA will be compiled and documented within the Hazardous Materials Initial Site Assessment (ISA) Report Version 5. The Phase I ESA will be included as an attachment to the report.

For the alternate routes, the KPA Team will prepare an ISA for each route. The ISAs will be completed under the guidance of the Federal Highway Administration's *Supplemental Hazardous Waste Guidance* (January 16, 1997) and TxDOT's *Hazardous Materials Environmental Handbook* (July 2014). The objective of an ISA is to identify and assess potentially contaminated sites, coordinate with agencies to assess contamination if present, and determine and implement measures early to avoid or minimize involvement with substantially contaminated properties. Upon completion of the ISA, the KPA Team will indicate if the potential for Unresolved Hazardous Materials is be present and if additional

investigation or assessment required. A Site Survey will not be conducted at the direction of the District, only desktop activities will be associated with this ISA.

Historical Use Information

A review of selected historical sources, where reasonably ascertainable and readily available, will be conducted in an attempt to document obvious past land use of the site and adjoining properties back to 1940 or when the site was initially developed, whichever is earlier. The following selected references, depending on applicability and likely usefulness, will be reviewed for the site.

- Historical topographic maps
- Aerial photographs (approximate 10 to 15 year intervals)
- City directories (approximate 5 year intervals)
- Fire (Sanborn) insurance maps
- Property tax file information
- Site title search information, if provided by client
- Environmental liens, if provided by client
- Building department records
- Zoning records
- Prior environmental reports, permits and registrations; or geotechnical reports, if provided by the client

The City and the current owner or their representative will be interviewed to provide information regarding past uses of the site and information pertaining to the use of hazardous substances and petroleum products on the site. Additionally, a reasonable attempt will be made to interview past owners, operators, and occupants of the site to the extent that they are identified within the scope of the ISA and are likely to have material information that is not duplicative of information already obtained through the assessment process.

Regulatory Records Review

Consistent with TxDOT's Hazardous Materials Environmental Handbook, outlined below are the following federal, state, and tribal databases, where applicable will be reviewed, and the approximate minimum search distance of the review from the nearest property boundary. A database firm will be subcontracted to access governmental records used in this portion of the assessment. Additional federal, state, and local databases may be reviewed if provided by the database firm. Determining the location of unmapped facilities is beyond the scope of this assessment.

Governmental Records	Search Distance
Federal NPL Site List	1.0 mile
Federal NPL (Delisted) Site List	0.5 mile
Federal CERCLIS Site List	0.5 mile
Federal CERCLIS NFRAP Site List	0.5 mile
Federal RCRA Corrective Actions (CORRACTS) TSD Facilities List	1.0 mile
Federal RCRA Non-CORRACTS TSD Facilities List	0.5 mile
Federal RCRA Generators List	Site and Adjoining
Federal Institutional Control/Engineering Control Registries	Site Only
Federal ERNS List	Site and Adjoining
State and Tribal-Equivalent NPL Site Lists	1.0 mile
State and Tribal-Equivalent CERCLIS Lists	0.5 mile
State and Tribal Landfill and/or Solid Waste Disposal Site Lists	0.5 mile
State and Tribal Leaking UST Lists	0.5 mile
State and Tribal Registered UST Lists	Site and Adjoining
State and Tribal Institutional Control/Engineering Control Registries	Site Only
State and Tribal VCP Site Lists (including RRC)	0.5 mile
State and Tribal Brownfield Site Lists	0.5 mile
State Innocent Owner/Operator	0.5 mile
State Dry Cleaners Database	0.5 mile

*Tribal databases will only be evaluated if the site is located in an area where a recognized tribe has jurisdiction for environmental affairs.

In addition to the database review and if customary practice for the site location, an attempt will be made to review reasonably ascertainable and useful local lists or records such as Brownfield sites, landfill/solid waste disposal sites, registered storage tanks, land records, emergency release reports, and contaminated public wells. A reasonable attempt will also be made to interview at least one staff member of any one of the following types of local government agencies: fire department, health agency, planning department, building department, or environmental department. As an alternative, a written request for information may be submitted to the local agencies.

The scope of work proposed herein includes up to two hours of regulatory agency file and/or records review. If the results of this initial review appear to warrant a more extensive review of applicable regulatory agency files and/or records, a cost estimate will be provided to the City for pre-approval. Please note that all requested files may not be available from regulatory agencies within the client's requested project schedule.

Site and Adjoining/Surrounding Property Reconnaissance

A site reconnaissance will be conducted. The reconnaissance will consist of visual observations of the site from the site boundaries and selected interior portions of the site. The site reconnaissance will include, where applicable, an interview with site personnel who has been identified as having knowledge of the uses and physical characteristics of the site. Pertinent observations from the site reconnaissance will be documented including:

Aboveground chemical or waste storage

- Visible underground chemical or waste storage, drainage, or collection systems
- Electrical transformers
- Obvious releases of hazardous substances or petroleum products

The adjoining property reconnaissance will consist of visual observations of the adjoining/ surrounding properties from the site boundaries and accessible public rights-of-way.

Deliverables:

The KPA Team will provide draft ISAs, complete with required appendices for review by the City within 40 business days upon Notice to Proceed. Upon receipt of consolidated comments, the KPA Team will provide a revised draft and comment matrix to TxDOT within 5 business days of reconciliation of comments. Once consolidated comments are received from TxDOT, the KPA Team will provide a response to the comments and request approval prior to providing a final document for approval and use within the EA. The response to comments will be provided within 5 business days upon receipt of comments and final document will be provided within 3 days upon approval of revisions/responses.

Task-Specific Limitations

The findings and conclusions presented in the final report will be based on the site's current utilization and the information collected as discussed in this proposal. Please note that we do not warrant database or third-party information (such as from interviewees) or regulatory agency information used in the compilation of reports.

TxDOT Hazardous Materials ISAs, such as the one proposed for this site, are of limited scope, are noninvasive, and cannot eliminate the potential that hazardous, toxic, or petroleum substances are present or have been released at the site beyond what is identified by the limited scope of this ISA. In conducting the limited scope of services described herein, certain sources of information and public records will not be reviewed. It should be recognized that environmental concerns may be documented in public records that are not reviewed. This ISA does not include subsurface or other invasive assessments, vapor intrusion assessments or indoor air quality assessments (i.e. evaluation of the presence of vapors within a building structure), business environmental risk evaluations, or other services not particularly identified and discussed herein. The limitations herein must be considered when the user of this report formulates opinions as to risks associated with the site. No warranties, express or implied, are intended or made.

An evaluation of significant data gaps will be based on the information available at the time of report issuance, and an evaluation of information received after the report issuance date may result in an alteration of our opinions and conclusions. We have no obligation to provide information obtained or discovered by us after the date of the report, or to perform any additional services, regardless of whether the information would affect any conclusions, recommendations, or opinions in the report. This disclaimer specifically applies to any information that has not been provided by the client.

Task 8: Preliminary Waters of the US (WOTUS) Delineation

This task is presented to assist the City in compliance with Section 404 and Section 10 regulating the discharge of fill materials in waters of the United States during possible future construction activities within the study area. The determination of the presence or absence of waters of the United States in the study area resulting from this task will dictate the appropriate level of US Army Corps of Engineers (USACE) permitting effort. To accomplish this task, the KPA Team will perform subtasks, which include a desktop review, a site investigation, and report preparation as described below.

Desktop Review

Prior to visiting the study area, background research will be conducted and will consist of locating and reviewing pertinent maps, aerial photographs, historic topographic maps, soil surveys, plant species data, U.S. Fish and Wildlife Service (USFWS) National Wetlands Inventory (NWI) maps, Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM), and other related data necessary for a desktop review of site conditions. This desktop review will assist the KPA Team in preliminarily identifying suspect aquatic resources within the study area. The KPA Team will review topographic maps, aerial photographs, and floodplain maps to make a preliminary determination based on the KPA Team's opinions and experiences of areas that could be potentially categorized as waters of the United States. Appropriate sections of the digital topographic maps, aerial photographs, and floodplain maps,

and proposed project boundaries will be projected and converted to the appropriate Geographic Information System (GIS) format that is required for the fieldwork, mapping, and report preparation. The desktop review will include an analysis of all three alternatives for the southern portion of the project.

Site Investigation

A site investigation will be conducted to identify along the preferred alternative, and delineate the boundary of, all aquatic resources in the study area. Wetland identification and delineation will follow the guidance in the USACE 1987 Wetland Delineation Manual and the Great Plains regional supplement to the USACE manual. The site investigation will include completion of USACE wetland determination data forms characterizing vegetation, hydrology, and soils within the study area. Potential waters of the United States will be identified based on the presence of an ordinary high-water mark (OHWM) and bed/bank features, or the presence of wetland indicators (i.e. hydrophytic vegetation, wetland hydrology, and hydric soil) where applicable and then mapped using a GPS with sub-meter accuracy. Following the site investigation, exhibits indicating the boundaries (polygons) and acreage and/or linear footage (if applicable) of all aquatic resources identified in the study area during the site Investigation will be prepared.

Report Preparation

A report will be prepared for the project documenting the findings of the field investigation. The report will address the regulatory setting, describe the assessment methodology, limitations and findings, and provide site-specific conclusions and recommendations as appropriate. The preliminary waters of the United States delineation report will include the following information, as applicable:

- Brief description of the project, methods/sampling procedures, and results as required by the USACE;
- Historical information (including topographic maps, historic aerial photographs, FEMA Floodplain maps, NWI maps, and soil surveys) to document the potential limits of USACE jurisdiction for the identified aquatic resources (if applicable);
- Location of transects, data points, photographs, etc.;
- A determination and description of all aquatic resources within the Study area;
- Wetland Determination Data Forms completed in accordance with USACE guidelines;
- Acreage and length (if applicable) of each aquatic resource within the study area; and
- Preliminary jurisdictional determination for aquatic resources within the study area.

Prior to issuing the report, the KPA Team will provide a summary of field observations and preliminary results/findings/opinions. An electronic copy of the report will be provided to the City for review. Upon incorporation of revisions, the KPA Team will provide an electronic copy of the final report to the City. The report will be prepared in a manner to be easily attached and serve as a supplement to additional documentation which would be submitted to the USACE for review, concurrence, and authorization, if necessary.

Deliverable:

The Preliminary WOTUS Delineation will be provided using the TxDOT WOTUS Report template and associated Section 404 Impacts Table will be prepared in a manner to be easily attached and serve as a supplement to additional documentation, which could be submitted to the USACE for review, concurrence, and authorization, if necessary. The Preliminary WOTUS Delineation report will be completed with required appendices for review by the client within 40 business days upon NTP. Upon

receipt of consolidated comments, the KPA Team will provide a revised draft and comment matrix to TxDOT within 5 business days of reconciliation of comments. Once consolidated comments are received from TxDOT, the KPA Team will provide a response to the comments and request approval prior to providing a final document for approval and use within the EA. The response to comments will be provided within 5 business days upon receipt of comments and final document will be provided within 2 days upon approval of revisions/responses. The KPA Team will work closely with TxDOT and the USACE coordinator during the process.

Task-Specific Limitations

Wetlands are naturally evolved and evolving systems. The scope of the preliminary waters of the United States determination/delineation as proposed herein, effects of man-made disturbances and/or temporal variations (e.g. rainfall, season, drought), and or subjective interpretation of data may preclude assessment in conformance with USACE requirements and significantly affect findings, conclusions and recommendations. Additionally, USACE and EPA regulations and guidance under Section 404 is continually evolving subject to court decisions, rule changes, and Executive Orders. The KPA Team intends to conduct the preliminary jurisdictional assessment under the most up-to-date regulatory guidance information; however, unanticipated changes in regulatory guidance resulting from additional court decisions, orders, etc. could be encountered and may necessitate additional scopes of work and fees not included herein.

Official authority to issue a determination defining applicable jurisdictional limits rests solely with the Environmental Protection Agency (EPA); however, authority has been delegated to the USACE. Jurisdictional Determinations (JD) are made by the USACE, upon specific written request, on a case-by-case basis and may make use of certain information at its disposal (such as other permits in the local area) that may not be readily available to the public. This preliminary WOTUS determination/delineation should not be considered authoritative, and it may not wholly eliminate uncertainty regarding the USACE's jurisdictional limits.

Task 9: Section 4(f) Checklist and Section 6(f) Coordination with TxDOT

Based up results of the SDT, the proposed Outer Loop West project may have the potential to impact publicly owned parks and recreation areas, or Historic sites [considered protected property under Section 4(f)]. Based upon the proposed action, alternatives, and previous archaeological surveys, it is assumed the project will qualify for an exception allowed under 23 CFR 774.13. To qualify, the project must comply with the USDOT Act Section 4(f) and the standards outlined in the 2012 Federal Highway Administration (FHWA) Policy Paper for projects that trigger Section 4(f). If the project impacts protected properties, either by a temporary occupancy or a permanent incorporation of land, or by activities that significantly impair the features, activities, or attributes, the project sponsor must evaluate the proposed project for adverse effects. To document the exemption, the KPA Team will complete the Checklist for Section 4(f) Exceptions for Public Parks, Recreation Lands, Wildlife & Waterfowl Refuges, Non-archeological and Archeological History Sites (effective July 2018). To complete the checklist the KPA Team will perform the following:

- Determine if potential Section 4(f) properties are located within the project area;
- Review project plans to determine if the project presents a use of a protected property;
- Initiate consultation with officials with jurisdiction (OWJ) to identify “significant” protected properties, per guidelines set forth in the 2012 FHWA Section 4(f) Policy Paper;
- Conduct fieldwork of significant protected properties, taking street-level photography of the property. This cost proposal assumes that the fieldwork will be completed concurrently with the site visit required for the PCR;
- Review project plans to determine if the project qualifies as an exception to the Section 4(f) process, as outlined in 23 CFR 774.13;

- Consult with the OWJ to determine if there is agreement that the use of the Section 4(f) property is solely for the purpose of preserving or enhancing an activity, feature, or attribute of the property;
- Prepare a detailed map of the Section 4(f) Property including current and proposed ROW, property boundaries, access points for pedestrians and vehicles, and existing and planned facilities;
- Prepare a site boundary and ROW map; and,

If a site, or multi-properties, do not fall under the exception, or the adverse impact reduced, then a Section 4(f) de minimis checklist and/or an alternatives analysis will be required. If either is required, an additional scope of work and proposed fee will be submitted at the request of the City of Temple.

Per conversations with Waco District, activities in a park must confirm that the park or recreational area has not previously funded by a grant from the Land and Water Conservation Fund Act (LWCF). Compliance with Section 6(f) of the LWCF must be followed by TxDOT and other entities. Section 6(f) applies to all transportation projects, regardless of funding source or approval authority, which propose to use land from a Section 6(f) property. Utilizing the TxDOT Guidance Document, the KPA Team will perform the search and coordination necessary to determine whether the project requires compliance with Section 6(f). This search includes conducting research on databases kept by the National Park Service and Texas Parks and Wildlife Department (TPWD). This task includes coordination with TPWD personnel, if necessary. Results of the findings will be presented in a short memo to the City and TxDOT. This subtask does not include meetings, agency coordination, or efforts to prepare documentation should the property be considered a Section 6(f) protected property.

Deliverables:

The Checklist for Section 4(f) Exceptions for Public Parks, Recreation Lands, Wildlife & Waterfowl Refuges, Non-archeological and Archeological History Sites will be completed with required appendices for review by the City within 20 business days upon Notice to Proceed. Upon receipt of consolidated comments, the KPA Team will provide a revised draft and comment matrix to TxDOT within 5 business days of reconciliation of comments. Once consolidated comments are received from TxDOT, the KPA Team will provide a response to the comments and request approval prior to providing a final document for approval and use within the EA. The response to comments will be provided within 5 business days upon receipt of comments and final document will be provided within 2 days upon approval of revisions/responses.

Task 10: Community Impacts Analysis

Due to the nature of the proposed action, creation of a reliver route, a Community Impacts Assessment Technical Report is required. The Community Impacts Assessment Technical Report documents the baseline conditions and potential impacts to the project area as well as adjacent to or potentially impacted by the project (including but not limited to areas which will be serviced by the roadway). The KPA Team will utilize TxDOT's 710.01 FRM, effective August 2019, Community Impacts Assessment Technical Report form to prepare the document under the guidance of TxDOT's *Environmental Handbook – Community Impacts, Environmental Justice, Limited English Proficiency, and Title VI Compliance* effective January 2015. The report will discuss:

- Community Study Area,
- Demographics,
- Observations,
- Public Involvement,
- Displacement(s),
- Access and Travel Patterns,

- Community Cohesion,
- Environmental Justice, and
- Limited English Proficiency.

A Detailed Economic Analysis will also be prepared, as an appendix to the report. The analysis will discuss the potential impact(s) to the local and regional economy due to displacement(s). Information generated within the analysis will be included within the report.

Information will be collected by utilizing various sources. These sources could include United States Census Bureau, American Community Survey, historic aerial images, zoning data, and update maps. Additionally, information will be obtained by conducting a site visit and documenting comments during public meetings. The information collected will be used to produce a Detailed Economic Analysis. Upon completion of obtaining data, the KPA Team will prepare the report as well as generate visual representations of the data collected.

Deliverables:

The KPA Team will provide a draft Community Impacts Assessment Technical Report, complete with required appendices for review by the City within 35 business days upon Notice to Proceed. Upon receipt of consolidated comments, the KPA Team will provide a revised draft and comment matrix to TxDOT within 5 business days of reconciliation of comments. Once consolidated comments are received from TxDOT, the KPA Team will provide a response to the comments and request approval prior to providing a final document for approval and use within the EA. The response to comments will be provided within 5 business days upon receipt of comments and final document will be provided within 2 days upon approval of revisions/responses.

Task 11: Indirect Impacts Analysis

The KPA Team will prepare a technical report to summarize the detailed analysis conducted to assess potential indirect impacts associated with the proposed action. The report will provide a discussion of the potential for impacts to sensitive resources, impact-causing activities, analysis of potential substantial indirect effects, and minimization and mitigation opportunities. This report will be prepared utilizing TxDOT's Indirect Impact Analysis Guidance (January 2019).

The analysis will assess the potential for:

- increased accessibility,
- induced growth,
- impacts on sensitive resources, and
- minimization and mitigation measure.

The analysis will focus on the project's likelihood to induce growth and the effects of that growth. Within the report, the methodology to determine the potential impacts will be defined as well as the area of influence (AOI). Based upon the methodologies and AIO we will identify areas where potentially increase in accessibility could occur and associated growth, if growth is likely to occur in the induced growth areas, identify resources subject to induced growth impacts, and identify mitigation if applicable.

The report format will be based upon elements of both TxDOT and AASHTO guidance documents and will contain the following sections:

- Introduction,
- Scoping,
- Resources Analyzed,
- Goals and Trends,
- Impact Causing Activities,
- Potentially Substantial Indirect Impacts, and
- Minimization and Mitigation

Deliverables:

The KPA Team will provide a draft Indirect Impacts Technical Report complete with required appendices for review by the client within 45 business days upon Notice to Proceed. Upon receipt of consolidated comments, the KPA Team will provide a revised draft and comment matrix to TxDOT within 10 business days of reconciliation of comments. Once consolidated comments are received from TxDOT, the KPA Team will provide a response to the comments and request approval prior to providing a final document for approval and use within the EA. The response to comments will be provided within 5 business days upon receipt of comments and final document will be provided within 2 days upon approval of revisions/responses.

Task 12: Cumulative Impacts Analysis

The KPA Team will prepare a technical report to assess cumulative impacts of a proposed project. A cumulative impact includes the total effect on a natural resource, ecosystem, or human community due to past, present, and future activities or actions. This report will be prepared utilizing *TxDOT's Cumulative Impact Analysis Guidelines* effective January 2019. The report will provide a discussion of the potential incremental impact of the proposed project when added to known past, present, and reasonably foreseeable future actions within the area of influence and for resources fully analyzed within the EA.

The KPA Team will draft a report that will adequately consider the cumulative effects of proposed project by discussing the “steps” outlined within the guidance document and adapted from the *NCHRP Project 25-25, Task 43, Legal Sufficiency Criteria for Adequate Indirect Effects and Cumulative Impacts Analysis as Related to NEPA Documents*. The “steps” include:

- Step 1: Resource study area, conditions, and trends
- Step 2: Direct and Indirect Effects on Each Resource from the Proposed Project
- Step 3: Other Actions – Past, Present, and Reasonably Foreseeable – and their Effect on Each Resource
- Step 4: The Overall Effects of the Proposed Project Combined with other Actions
- Step 5: Mitigation of Cumulative Effects

The report format will be based upon elements of both TxDOT and NCHRP guidance document, each “step” shall be a section each fully analyzed resource will be discussed within each of the step. The preparation of the report will not commence until the resources to be fully analyzed within the EA have been determined and impacts analysis complete.

Deliverables:

The KPA Team will provide a draft Cumulative Impacts Technical Report complete with required appendices for review by the City within 20 business days upon completion of individual fully analyzed resource impacts. Upon receipt of consolidated comments, the KPA Team will provide a revised draft and comment matrix to TxDOT within 5 business days of reconciliation of comments. Once consolidated comments are received from TxDOT, the KPA Team will provide a response to the comments and request approval prior to providing a final document for approval and use within the EA. The response to comments will be provided within 5 business days upon receipt of comments and final document will be provided within 2 days upon approval of revisions/responses.

Task 13: Noise Analysis

The purpose of the study is to document existing and predicted future build and no-build noise levels during peak noise hour conditions at representative noise receptors within the study area. The study area is presumed to consist of the location of proposed roadway improvement areas plus a buffer zone of up to 500 feet. The noise measurements and modeling will be conducted in accordance with the TxDOT *2019 Noise Policy: Roadway Traffic and Construction Noise*, Effective Date February 2019 and the FHWA *Measurement of Highway-Related Noise*, dated May 1996.

Receptor Survey

A review of aerial photography will be used to identify potential noise-sensitive areas or receptors including schools, hospitals, churches and residential areas. As much as possible, representative receptor sites will be selected from all of the identified receptors within the study area which exhibit typical conditions (ambient, roadway, and geometry) for the study area. The total number of representative receptors which will be included in the model is estimated to be approximately 45 or less.

Noise Receptors

The representative Category A through E noise receptors such as residential, church, school, park, developed land and others will be identified which will be included in the noise model. The physical setting conditions surrounding the noise measurement sites will be identified through review of construction diagrams and/or aerial photography.

According to TxDOT and FHWA guidelines, traffic noise impacts may occur when either the predicted noise level at a receiver approaches or exceeds the Noise Abatement Criteria (NAC) or when there is a substantial increase in noise as a result of the project. An increase is considered to be substantial when the design year noise levels are predicted to be greater than the existing levels by 10 decibels, A-weighted [dB(A)] or more.

Noise Modeling Validation

FHWA regulations 23 CFR 772.11(d)(2) require validation of the noise modeling used to predict existing noise levels for the project. The noise modeling results are considered valid if the measured existing highway traffic noise levels are within +/-3 dB(A) of the predicted (modeled) highway traffic noise levels for the existing conditions.

To accomplish the validation, a series of three noise measurements will be conducted along the roadway within the vicinity of noise sensitive areas. Simultaneous traffic counts and determination of vehicle speeds and classes will also be made during the measurement events. Two selected locations will be distributed throughout the proposed project study area. The traffic counts and speed data will be acquired through the use of either video recording or pneumatic tube or radar measurement equipment across a measured roadway distance.

The noise measurements will be performed in accordance with the methodology presented in *Measurement of Highway Related Noise*, FHWA, 1996. The noise levels at segments of the highway corresponding to the noise measurement locations will be modeled using Traffic Noise Model (TNM) 2.5 with the traffic volumes and speed data collected during the field noise measurements.

If a difference of over 3 dB(A) between the modeled and measured results occurs, refinements to the model input regarding pavement widths, terrain, etc. will be evaluated. If the difference between the modeled and measured results remains over 3 dB(A) after refinement of the noise model inputs, the discrepancy will be noted in the noise study report. Possible reasons for discrepancies may include noise contributions from airports, railroad, boats or noise sources other than the roadway traffic during the measurements, atypical vehicle noise emission levels during the measurements, specific pavement conditions not incorporated in the model (tining, grooving, excessive roughness or wear, etc.), meteorological effects on the measured levels, or difficult-to-model terrain or ground characteristics.

Background noise and noise from other roadways may contribute to measured noise levels which are not modeled in TNM. If refinement of the model input does not resolve the discrepancies, contributions from noise sources other than the road during the measurements may be evaluated further and combined logarithmically with predicted noise levels in order to calibrate the model.

Determination of Peak Noise Hour

The approach to determine the peak noise hour will be to research and evaluate recent traffic and noise studies (provided by others). For the purpose of this study, the peak noise hour is presumed to correspond to the peak traffic hour. The KPA Team understands that the traffic data will be provided by others. The modeling of the existing noise levels for use in impact assessment will be conducted for the peak noise hour.

Noise Measurement Equipment

The noise measurement equipment to be used will include:

- Quest ANSI S1.4 Type 1 or 2 Sound Level Meter with an integrated data logger or similar brand;
- Acoustic calibrator – 114 dB;
- Microphone tripod stand;
- Microphone windscreen; and
- Anemometer, thermometer, and a hygrometer or sling psychrometer.

Equipment Set Up

The sound level meter and calibrator will have been calibrated by the manufacturer or a manufacturer-authorized calibration service within the last year. A copy of the calibration certificate will be kept with the project files. Prior to initial data collection, at hourly intervals thereafter, and at the end of the measurement day, a calibration check of the instrument will be conducted and in the event that more than 1 dB variation is detected, the instrument will be recalibrated.

The noise measurement instrument settings will include:

- Equivalent sound level (LAeq) will be used to monitor continuous sounds;
- Slow response;
- Logging on one-second intervals;
- Microphone height will be 5 feet on a stand;
- Field logs will be kept of monitoring and incidental noise such as: sirens, sudden braking, aircraft, trains, motorcycles, etc.;
- Measurements will not be made when wind speeds exceed 12 miles per hour, regardless of direction;
- Sampling periods will be 15 minutes per receiver; and

- Measurements will be made under the following conditions:
 - Dry pavement, and
 - Low wind speed.

The meteorological conditions (wind speed and direction, temperature, humidity, and cloud cover) will be documented prior to data collection, at a minimum of 15-minute intervals, and whenever substantial changes in conditions are noted. Incidental extraneous noise events (i.e. sirens, jet aircraft, etc.) will be removed from the noise measurement data set and the Leq will be recalculated for the measurement event.

Noise Modeling Validation Report

A letter report will be prepared that documents the methods and procedures used to complete the modeling validation and the noise measurement results. The report will include the peak noise hour information, receptor descriptions, traffic count and speed information, NAC, a diagram depicting the locations of the receivers and the comparison of the validation results of the measurements to the TNM 2.5 modeling of the highway segments. Information documented in the letter report will be reflected within the Noise Report as well.

Prediction of Existing Noise Levels

Because the proposed project would involve construction of a new roadway, noise modeling for the no-build (existing) alternative would consist of the evaluation of the existing roadways nearest to the proposed new roadway. Areas of the proposed new roadway that are not at or near existing roadways would not be modeled as part of the no-build noise level evaluation.

After validating the noise modeling methods as described previously, the existing noise levels for the study area will be modeled using the most current (approved) version of the FHWA traffic noise modeling software –TNM 2.5. Noise modeling will be completed in accordance with the relevant procedures in FHWA and TXDOT guidelines.

Input data such as existing traffic volumes, traffic speeds, and percent of vehicle types reflecting the traffic characteristics which yield the loudest hourly traffic noise levels on a regular basis under normal conditions will be used. Noise receptor locations selected for modeling ***will be a subset of the study area receptors*** and will be chosen to be generally acoustically representative (i.e. topography, setback, terrain, traffic conditions, receptor type) of a grouping of similarly located receptors.

Prediction of Future Noise Levels

Predicted future noise levels for the build alternative would involve design traffic volumes and speeds over the proposed new roadway. The no-build alternative will be modeled in a similar manner as the described previously for the modeling of existing noise levels using the predicted future traffic volumes. The receptors selected for the existing noise modeling will be used to model both the proposed build and the no-build alternatives. The roadway geometry used for the no-build alternative predicted future noise modeling will be the same information as used for the predicted existing noise modeling. The roadway geometry for the build alternative will be based upon the proposed project schematic design. Existing traffic volumes as well as future predicted traffic volumes and speeds for both the no-build and build alternatives will be provided by the design team or TXDOT.

Design year noise levels based on design hourly volumes will be predicted for Activity Category G lands (undeveloped lands that have not been permitted for development). At a minimum, the analysis will evaluate the distances from the proposed edge of the near travel lane out to where levels of 60 and 64 dB(A) are modeled to occur. Building permit research will be conducted along the corridor to identify undeveloped land which would be unpermitted by the date of public knowledge of the noise study results. On lands that are permitted for development near the corridor, the filed plat or similar information will be used to choose receptor locations representing the exterior areas of frequent human use.

As directed by TxDOT, the noise levels modeling results can be made available to local public governments involved with planning in order to prevent traffic noise impacts at future developments along the roadways.

Deliverables:

A Noise Report and summary sections for use within the EA, which will include a summary of the methods and procedures utilized, traffic volumes, speeds and other modeling input data used, description of the receptors, existing and future noise modeling results and comparison of the existing and the future predicted noise levels for both the proposed build and no-build alternatives to the TxDOT noise abatement criteria, evaluation of potential noise impacts, noise barrier analysis, noise data tables and figures depicting the proposed project, and receptor locations. Noise analyses and reporting will be completed approximately 90 days from Notice to Proceed but is dependent upon receiving information from TxDOT and the City as necessary.

Traffic and Other Data to Be Provided

The following information will need to be provided by the City, TxDOT Traffic Section or Design Section so that the existing traffic and proposed future traffic noise modeling can be completed (A portion of the data is internal to the current design):

- Existing (recent) traffic counts and predicted future no-build and the proposed build alternative estimated design year traffic average daily volumes and K values and/or design hour volumes and traffic design speed limits for:
 - Roadways,
 - Auxiliary roads that would be improved by the proposed project
- Estimated percentages of total traffic volume for each vehicle class including:
 - Automobiles,
 - Medium trucks,
 - Heavy trucks,
 - Buses, and
 - Motorcycles
- Turning movement data for the intersections included in the study.
- Unit costs for noise barrier wall construction for the noise abatement feasibility analysis, if deemed necessary to conduct.

Task 14: Air Quality Analysis (Transportation Conformity Report Form)

Due to the location of the project, located within an area that is in attainment under the National Ambient Air Quality Standards, and that the project will be considered regionally significant, a Transportation Conformity Report will need to be prepared. The KPA Team will prepare the report utilizing TxDOT's template, effective October 2015. The report will document the consistency of the project with the existing planning documents (ex: Transportation Improvement Program, Statewide Transportation Improvement Program) and regional conformity. The report will include completion of the required form and associated attachments including but not limited to project maps, plan and program excerpts, and sections or conceptual designs.

Deliverables:

The KPA Team will provide a draft Report Form complete with required appendices for review by the City within 30 calendar days upon receipt of sections or conceptual designs. Upon receipt of consolidated

comments, the KPA Team will provide a revised draft and comment matrix to TxDOT within 5 business days of reconciliation of comments. Once consolidated comments are received from TxDOT, the KPA Team will provide a response to the comments and request approval prior to providing a final document for approval and use within the EA. The response to comments will be provided within 5 business days upon receipt of comments and final document will be provided within 2 days upon approval of revisions/responses.

Task 15: Public Involvement Meeting (Open House)

The KPA Team will support and assist with the preparation of a Public Involvement Meeting (Open House style) for the City of Temple. The KPA Team will prepare PowerPoint presentation for use during the meeting and to be made available on-line, prepare tabletop displays including constraint maps and project area exhibits, and comment cards; in English and second language if required. The KPA Team will also assist in coordination of the venue and required equipment (including recording equipment). Upon completion of the Open House, the KPA Team will consolidate comments. Prior to conducting the Open House, the KPA Team will coordinate with TxDOT for approvals, and coordinating closely with the City of Temple for the successful execution of the Open House.

This task does not include the cost of venue rental.

Task 16: Public Hearing

The KPA Team will work to prepare a Public Hearing for the City of Temple. This will involve assisting with preparing advertising including newspaper notices, press releases, and on-line notifications per TxDOT guidance; coordinating venue, preparing PowerPoint presentations, visual displays including maps, facilitating recording and preparing public comments, coordinating with TxDOT for approvals, and coordinating closely with the City of Temple for the successful execution of the Public Hearing.

This task does not include the cost of venue rental but does include the cost of public notice of the Public Hearing in the local newspaper, which is required per TxDOT. This task assumes that the venue will be an official City of Temple facility such as the Public Library, Designated School, City Hall or Council Chambers to conduct a hearing. This task does include the cost of a stenographer to record the official proceedings of the Public Hearing.

Task 17: Project Management, Kickoff Meeting, and Progress Reports

Upon approval of these supplemental services a kickoff meeting will be conducted. The objectives of the meeting will be to introduce team members, coordinate the project schedule, and discuss the nature of the project. The KPA Team will provide an agenda and draft baseline schedule at least two calendar days before the kickoff meeting.

Project management will include coordinating work efforts, tracking the EA and associated technical reports progress and schedule.

Additional Scope of Services Not Included

Based on the current information to date, the tasks detailed above will be required as part of the project. Depending on TxDOT approvals, it is not known if further studies will be required. Therefore, the following environmental tasks are **not** included in this proposal and would require additional scoping and cost (estimated fees provided, when possible), if deemed necessary:

- Impaired Water Analysis and Storm Water Plans (estimated cost: \$800)
- Air Studies (estimated cost: To Be Determined [TBD])
- Noise Barrier Analysis (estimated cost: \$12,700)
- Noise Workshop (estimated cost: \$10,200)

- Pre-Construction Notification (PCN) (estimated cost: \$3,800.00)
- Archeological Surveys of Alternatives (estimated cost: \$6,200.00)
- Species Presence or Absence Surveys (estimated cost: TBD)
- Agency Coordination **outside** of TxDOT Waco District and Environmental Affairs Division (except for THC archeology, which is included in Task 3 and USACE Coordination, which is included in Task 9) (estimated cost: \$1,280.00)

C. COMPENSATION

Compensation shall be on a **lump sum basis by task as indicated in the table below.**

TxDOT Technical Studies and Preparation of EA	Fee
Task 2: Preparation of EA documents, Review, and FONSI	16,000.00
Task 3: Archeological Coordination with TxDOT	2,000.00
Task 4: Historic Project Coordination Request	3,000.00
Task 5: Historic Resources Survey and Report	6,000.00
Task 6: Biological Evaluation	2,000.00
Task 7: Hazardous Materials ISA	3,000.00
Task 8: WOTUS Delineation	10,000.00
Task 9: Section 4(f) and Section 6 (f)	2,000.00
Task 10: Community Impacts Analysis	10,000.00
Task 11: Indirect Impacts Analysis	10,000.00
Task 12: Cumulative Impacts Analysis	6,000.00
Task 13: Noise Analysis	18,000.00
Task 14: Air Quality Analysis	1,000.00
Task 15: Public Involvement (Open House)	11,000.00
Task 16: Public Hearing	18,000.00
Task 17: Project Management and Progress Reports	15,000.00
Total Lump Sum Fee	\$ 133,000.00

The fees in this proposal do not include meetings, consultation, or data collection/evaluation that may be required by regulatory agencies outside of what has been proposed above.

D. RELIANCE

The delivered documentation will be prepared for the exclusive use and reliance of the City of Temple, and TxDOT. Reliance by any other party is prohibited without the written authorization of the KPA Team in the form of a Reliance Agreement that incorporates the terms and conditions of the original Agreement.

Sincerely,



R. David Patrick, P.E., CFM.

CONTRACT AMENDMENT (Professional Service Agreements)

PROJECT: Temple – Outer Loop Phase IV Final Design & Bidding Services

OWNER: City of Temple

ENGINEER: Kasberg, Patrick & Associates, LP

AMENDMENT #: 2

Make the following additions, modifications or deletions to the work described in the Contract Documents:

Continued Environmental Planning Services \$ 133,000.00

The Compensation agreed upon in this Contract Amendment is the full, complete and final payment for all costs the Architect or Engineer may incur as a result of or relating to this amendment whether said costs are known, unknown, foreseen or unforeseen at this time, including without limitation, any cost for delay (for which only revised time is available), extended overhead, ripple or impact cost, or any other effect on changed or unchanged work as a result of this Contract Amendment.


Original Contract Amount:	\$ <u>884,200.00</u>
Previous Net Change in Contract Amount:	\$ <u>9,900.00</u>
Amount This Amendment:	\$ <u>133,000.00</u>
Revised Contract Amount:	\$ <u>1,027,100.00</u>
Original Contract Completion Date:	<u>January 22, 2019</u>
Revised Contract Completion Date:	<u>December 31, 2020</u>

Recommended by:

Project Manager

Date

Agreed to:



Architect or Engineer

11/19/15

Date

Approved by City of Temple:

City Manager

Date

Approved as to form:

City Attorney's Office

Date

Approved by Finance Department:

Date

CONTRACT AMENDMENT (Professional Service Agreements)

PROJECT: TRZ#1 – Outer Loop Phase V

OWNER: City of Temple

ENGINEER: Kasberg, Patrick & Associates, LP

AMENDMENT #: 1

Make the following additions, modifications or deletions to the work described in the Contract Documents:

Continued Environmental Planning Services \$ 64,300.00

The Compensation agreed upon in this Contract Amendment is the full, complete and final payment for all costs the Architect or Engineer may incur as a result of or relating to this amendment whether said costs are known, unknown, foreseen or unforeseen at this time, including without limitation, any cost for delay (for which only revised time is available), extended overhead, ripple or impact cost, or any other effect on changed or unchanged work as a result of this Contract Amendment.


Original Contract Amount:	\$ <u>519,150.00</u>
Previous Net Change in Contract Amount:	\$ <u>0.00</u>
Amount This Amendment:	\$ <u>64,300.00</u>
Revised Contract Amount:	\$ <u>583,450.00</u>
Original Contract Completion Date:	<u>October 12, 2019</u>
Revised Contract Completion Date:	<u>December 31, 2020</u>

Recommended by:

Project Manager

Date

Agreed to:



Architect or Engineer

11/15/19

Date

Approved by City of Temple:

City Manager

Date

Approved as to form:

City Attorney's Office

Date

Approved by Finance Department:

Date

CONTRACT AMENDMENT (Professional Service Agreements)

PROJECT: Temple – Preliminary Design Ph. 6 Outer Loop (IH35 South to Old Waco Rd)

OWNER: City of Temple

ENGINEER: Kasberg, Patrick & Associates, LP

AMENDMENT #: 4

Make the following additions, modifications or deletions to the work described in the Contract Documents:

Continued Environmental Planning Services \$ 51,700.00

The Compensation agreed upon in this Contract Amendment is the full, complete and final payment for all costs the Architect or Engineer may incur as a result of or relating to this amendment whether said costs are known, unknown, foreseen or unforeseen at this time, including without limitation, any cost for delay (for which only revised time is available), extended overhead, ripple or impact cost, or any other effect on changed or unchanged work as a result of this Contract Amendment.


Original Contract Amount:	\$ <u>391,906.00</u>
Previous Net Change in Contract Amount:	\$ <u>816,400.00</u>
Amount This Amendment:	\$ <u>51,700.00</u>
Revised Contract Amount:	\$ <u>1,273,606.00</u>
Original Contract Completion Date:	<u>June 4, 2018</u>
Revised Contract Completion Date:	<u>June 30, 2021</u>

Recommended by:

Project Manager

Date

Agreed to:



Architect or Engineer

11/15/18

Date

Approved by City of Temple:

City Manager

Date

Approved as to form:

City Attorney's Office

Date

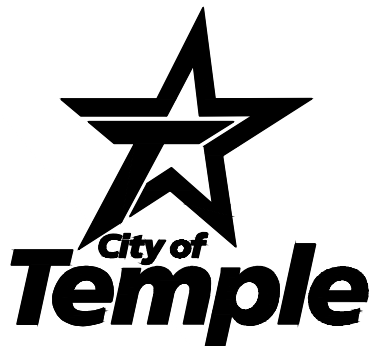
Approved by Finance Department:

Date



0 250 500
HORIZONTAL SCALE IN FEET

ROADWAY
RIGHT OF WAY



Outer Loop

WEST PHASE I /
OUTER LOOP PHASE IV



KASBERG, PATRICK & ASSOCIATES, LP
CONSULTING ENGINEERS
TEMPLE, TEXAS 76501
Firm Registration No. F-510

RESOLUTION NO. 2019-9920-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING CONTRACT AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT WITH KASBERG, PATRICK AND ASSOCIATES, LP OF TEMPLE, TEXAS IN THE AMOUNT OF \$133,000, FOR ENVIRONMENTAL PLANNING SERVICES FOR PHASE 4 OF THE OUTER LOOP; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Outer Loop south of Farm-to-Market 2305 is a critical north-south arterial that will connect the Adams Avenue growth corridor to Interstate Highway 35;

Whereas, on October 19, 2017, Council authorized a professional services agreement with Kasberg, Patrick & Associates, LP (KPA), in the amount of \$884,200 to design and bid the proposed improvements to for Phase 4 of the Outer Loop;

Whereas, on August 16, 2018, Council authorized an application for federal funding through the Killeen-Temple Metropolitan Planning Organization (KTMPO) Category 7 program and on January 16, 2019 KTMPO allocated available Category 7 federal funds for the portion of the project consist of 6,100 linear feet of arterial roadway between Jupiter Road and just south of the future connection of Poison Oak Road, internally referred to as Phase 4 of the Outer Loop, and referred to by the Texas Department of Transportation (TXDOT) as Outer Loop West Phase 1;

Whereas, on May 15, 2019, the City authorized Contract Amendment No. 1 with KPA in the amount of \$9,900 to conduct an Environmental Investigation to determine the environmental scope and to prepare the Classification Letter required by the National Environmental Policy Act (NEPA) and on August 1, 2019, the TXDOT Environmental Affairs approved the Classification Letter request for an Environmental Assessment;

Whereas, Staff recommends Council authorize Change Order No. 2 to the professional services agreement with Kasberg, Patrick and Associates, LP of Temple, Texas in the amount of \$133,000, for environmental planning services for Phase 4 of the Outer Loop;

Whereas, funding for Change Order No. 2 is available in Account No. 365-3400-531-6813 and Account No. 561-5200-535-6813, Project No. 101714; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

Part 2: The City Council authorizes the City Manager, or her designee, after approval as to form by the City Attorney's Office, to execute Contract Amendment No. 2 to the professional services agreement with Kasberg, Patrick and Associates, LP of Temple, Texas in the amount of \$133,000, for environmental planning services for Phase 4 of the Outer Loop.

Part 3: It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **5th** day of **December**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephanie Hedrick
Deputy City Secretary

Kayla Landeros
Interim City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/05/19
Item #5(K)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Don Bond, P.E., CFM, Public Works Director
Richard Wilson, P.E., CFM, City Engineer

ITEM DESCRIPTION: Consider adopting a resolution authorizing contract amendment #3 to the professional services agreement with Kasberg, Patrick & Associates, LP, for design phase services required for the new Pepper Creek 1.0-MG elevated storage tank, in the amount of \$32,080.

STAFF RECOMMENDATION: Adopt resolution as presented in Item Description.

ITEM SUMMARY: On October 4, 2018, Council authorized a professional services agreement with KPA in the amount of \$159,590 to design and bid the replacement of the existing 220,000-gallon elevated storage tank (EST) located on FM 2305 west of FM 2271 with a new 1.0-MG EST located in the same general vicinity to address the low pressure and water quality concerns in the area.

On June 20, 2019, Council authorized an amendment to KPA's contract to include construction phase services in the amount of \$192,380 and a construction contract with Landmark Structures I, LP in the amount \$2,688,000. On September 16, 2019, the City authorized contract amendment #2 to provide a preliminary design and site investigation to determine the feasibility of an alternate site in an amount of \$41,745.

The attached engineer's proposal includes final design and required permitting for the alternate site located approximately 700' northwest of the FM 2305 and FM 2271 intersection. Staff recommends authorizing the following scope of services and fees under this amendment:

Civil Plans and Specifications	\$ 11,600
Electrical Plans and Specifications	8,800
TxDOT Permitting	2,880
TCEQ Resubmittal and Review	2,160
FAA Resubmittal and Review	1,080
Stakeholder Meeting Support	2,680
Change Order Preparation	<u>2,880</u>

TOTAL \$ 32,080

Construction is anticipated to begin in Spring 2020 and is estimated to require 365 calendar days to complete.

FISCAL IMPACT: Funding for contract amendment #3 to the professional services agreement with Kasberg, Patrick & Associates, LP, for design phase services required for the new Pepper Creek elevated storage tank in the amount of \$32,080 is available in account 561-5100-535-6991, project 101948, as follows:

Project Budget	\$	3,373,293
Encumbered/Committed to Date		(3,107,936)
KPA Contract Amendment #3		(32,080)
Remaining Project Funds Available	\$	<u>233,277</u>

ATTACHMENTS:

[Engineer's Proposal](#)
[Contract Amendment](#)
[Project Map](#)
[Resolution](#)



KASBERG, PATRICK & ASSOCIATES, LP
CONSULTING ENGINEERS
Texas Firm F-510

Temple
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Temple, Texas 76501
(254) 773-3731

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Georgetown
800 South Austin Avenue
Georgetown, Texas 78626
(512) 819-9478

November 15, 2019

Ms. Sharon Carlos, P.E.
3210 E. Avenue H
Building A
Temple, Texas 76501

Re: City of Temple, Texas
Pepper Creek 1,000,000 Gallon Elevated Storage Tank

Dear Ms. Carlos:

This letter is in response to your request to amend the current contract for the Pepper Creek 1,000,000 Gallon Elevated Storage Tank to provide the final engineering and required permitting for the alternative site location. This proposal includes support for a stakeholder meeting as may be required and preparation of a negotiated change order with the Contractor for the project.

The charges for our services will be a lump sum amount of \$32,080, as detailed below.

<u>Professional Services for Elevated Storage Tank and Water Line</u>		
Civil Plan and Specification Revisions	\$	11,600.00
Electrical Plan and Specification Revisions		8,800.00
TxDOT Permitting		2,880.00
TCEQ Resubmittal and Review		2,160.00
FAA Resubmittal and Review		1,080.00
Stakeholder Meeting Support		2,680.00
Change Order Preparation/Negotiation		2,880.00
Total	\$	32,080.00

The Lump Sum Amount for the project will not be exceeded unless the scope of the project is changed and additional work is authorized in writing. We will invoice this work for percent complete on a monthly basis.

Ms. Sharon Carlos, P.E.
November 15, 2019
Page Two

If this proposal meets with your approval, please execute below and return one copy to us for our files. We appreciate the opportunity to work on this project and look forward to its successful completion.

Sincerely,

A handwritten signature in blue ink that reads "Ginger R. Tolbert". The signature is written in a cursive, flowing style.

Ginger R. Tolbert, P.E.
GRT/

CONTRACT AMENDMENT (Professional Service Agreements)

PROJECT: Pepper Creek 1.0MG Elevated Storage Tank
OWNER: City of Temple
ARCHITECT/ENGINEER: Kasberg, Patrick & Associates
AMENDMENT #: 3

Make the following additions, modifications or deletions to the work described in the Contract Documents:

Add the following construction phase services:

Civil Plans and Specifications	\$ 11,600
Electrical Plans and Specifications	\$ 8,800
TxDOT Permitting	\$ 2,880
TCEQ Resubmittal and Review	\$ 2,160
FAA Resubmittal and Review	\$ 1,080
Stakeholder Meeting Support	\$ 2,680
Change Order Preparation	\$ 2,880
Total	\$ 32,080

The Compensation agreed upon in this Contract Amendment is the full, complete and final payment for all costs the Architect or Engineer may incur as a result of or relating to this amendment whether said costs are known, unknown, foreseen or unforeseen at this time, including without limitation, any cost for delay (for which only revised time is available), extended overhead, ripple or impact cost, or any other effect on changed or unchanged work as a result of this Contract Amendment.

Original Contract Amount:	\$ <u>159,590.00</u>
Previous Net Change in Contract Amount:	\$ <u>234,125.00</u>
Amount This Amendment:	\$ <u>32,080.00</u>
Revised Contract Amount:	\$ <u>425,795.00</u>
Original Contract Completion Date:	<u>March 26, 2019</u>
Revised Contract Completion Date:	<u>July 31, 2021</u>

Recommended by:

Agreed to:

Project Manager Date

Architect or Engineer Date

Approved by City of Temple:

Approved as to form:

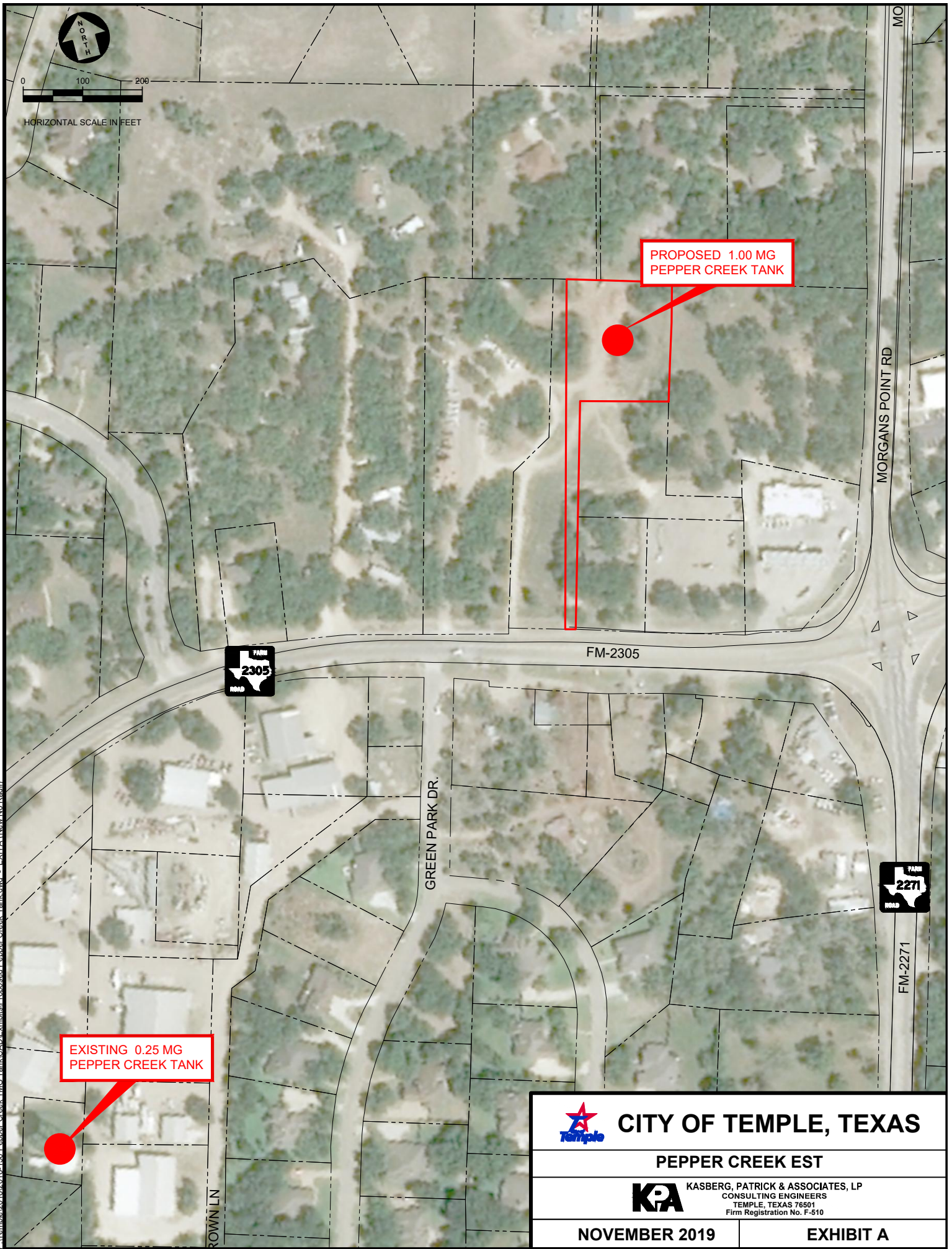
Brynn Myers, City Manager Date

City Attorney's Office Date

Approved by Finance Department:

Finance Date

P:\Temple\2018\2018-156 Pepper Creek 1MG Tank\CAD\Exhibits\Proposed Pepper Creek Tank.dwg - EXH A (New No Redl)



CITY OF TEMPLE, TEXAS

PEPPER CREEK EST



KASBERG, PATRICK & ASSOCIATES, LP
CONSULTING ENGINEERS
TEMPLE, TEXAS 76501
Firm Registration No. F-510

NOVEMBER 2019

EXHIBIT A

RESOLUTION NO. 2019-9921-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING CONTRACT AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT WITH KASBERG, PATRICK AND ASSOCIATES, LP OF TEMPLE, TEXAS IN THE AMOUNT OF \$32,080, FOR DESIGN PHASE SERVICES REQUIRED FOR THE NEW PEPPER CREEK 1.0-MG ELEVATED STORAGE TANK; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on October 4, 2018, Council authorized a professional services agreement with Kasberg, Patrick and Associates (“KPA”) in the amount of \$159,590 to design and bid the replacement of the existing 220,000-gallon elevated storage tank (EST) located on Farm-to-Market 2305 west of Farm-to-Market 2271 with a new 1.0-MG EST located in the same general vicinity to address the low pressure and water quality concerns in the area;

Whereas, on June 20, 2019, Council authorized an amendment to KPA’s contract to include construction phase services in the amount of \$192,380 and on September 16, 2019, Contract Amendment No. 2 was executed to provide a preliminary design and site investigation to determine the feasibility of an alternate site in an amount of \$41,745;

Whereas, Staff recommends Council approve Contract Amendment No. 3 to the professional services agreement with Kasberg, Patrick and Associates, LP in the amount of \$32,080, for design phase services required for the new Pepper Creek 1.0-MG elevated storage tank;

Whereas, funding for Contract Amendment No. 3 is available in Account No. 561-5100-535-6991, Project No. 101948; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

Part 2: The City Council authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to execute Contract Amendment No. 3 to the professional services agreement with Kasberg, Patrick and Associates, LP in the amount of \$32,080, for design phase services required for the new Pepper Creek 1.0-MG elevated storage tank.

Part 3: It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **5th** day of **December**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephanie Hedrick
Deputy City Secretary

Kayla Landeros
Interim City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/05/19
Item #5(L)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Kenton Moffett, Assistant Director of Public Works
Colton Migura, Chief of Operations

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of a new vertical turbine pump for the City's water distribution system from Odessa Pumps of Odessa, in the amount of \$52,920.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Authorization of this purchase will allow for the replacement of the City's high service pump #12, which is vital to providing water to the Avenue G Pump Station and the distribution of water to the east side of Temple, with a like-kind Fairbanks Morse brand pump from Odessa Pump. The current pump is having operational issues and based on evaluation of the required repairs to put the old pump back in service, it was determined that it would be more cost-effective to replace the pump.

Odessa Pumps has been awarded cooperative purchasing BuyBoard contract #589-19, which Staff is recommending utilizing for this pump purchase. Contracts awarded through BuyBoard have been competitively procured and meet the statutory procurements requirements for Texas municipalities.

FISCAL IMPACT: Funding for the purchase of a new vertical turbine pump from Odessa Pumps for the high service pumping station in the amount of \$52,920 is available in account 520-5100-535-6222, project 102196, as follows:

Project Budget	\$	52,920
Encumbered/Committed to Date		-
Odessa Pumps - High Service Pump		(52,920)
Remaining Project Funds Available	\$	-

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9922-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A NEW VERTICAL TURBINE PUMP FROM ODESSA PUMPS, OF ODESSA, TEXAS IN THE AMOUNT OF \$52,920 FOR THE CITY'S WATER DISTRIBUTION SYSTEM; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City's high service pump #12 is not functioning properly and the required repairs are not cost-effective - a full replacement with a like-kind Fairbanks Morse brand pump from Odessa Pumps is recommended as this pump is vital to providing water to the Avenue G Pump Station and the distribution of water to the east side of Temple;

Whereas, Odessa Pumps has been awarded a BuyBoard contract, No. 589-19, which Staff recommends utilizing for this purchase - contracts awarded through BuyBoard have been competitively procured and meet the statutory procurement requirements for Texas municipalities;

Whereas, funds are available for this purchase in Account No. 520-5100-535-6222, Project No. 102196;

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

Part 2: The City Council authorizes the purchase of a new vertical turbine pump from Odessa Pumps in the amount of \$52,920 utilizing a BuyBoard contract, and authorizes the City Manager, or her designee, after approval as to form by the City Attorney's office, to execute any documents that may be necessary for this purchase.

Part 3: It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **5th** day of **December**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephanie Hedrick
Deputy City Secretary

Kayla Landeros
Interim City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/05/19
Item #5(M)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing budget amendments for fiscal year 2019-2020.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to recommend various budget amendments, based on the adopted FY 2019-2020 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

FISCAL IMPACT: The total amount of budget amendments is \$170,468.

ATTACHMENTS:

[Budget Amendments](#)
[Resolution](#)

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2020 BUDGET
December 5, 2019

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
110-4000-555-2225		Capital < \$5,000 / Books & Periodicals	\$ 1,000	
110-0000-314-1917		Reserve for MacGregor Trust		\$ 1,000
To appropriate MacGregor Trust Funds for the purchase of history books.				
110-3250-551-2513		Other Services / Special Services	\$ 15,000	
110-0000-445-1885		Summit Recreation Fees / Tennis Fees		\$ 15,000
To appropriate revenue and expenditure related to group and private tennis lessons held at Summit Fitness Center.				
110-1600-512-2616		Contracted Services / Professional	\$ 35,000	
110-0000-352-1345		Designated for Capital Projects - Unallocated Fund Balance		\$ 35,000
To appropriate General Fund Designated for Capital Projects - Unallocated Fund Balance for legal services in the amount of \$35,000 for Naman, Howell, Smith & Lee related to: *the possible creation of an urban renewal zone; *a proposed 2020 General Obligation Bond Election; *an election proposition regarding the possible sale of park land; and *creation of a Community Housing Development Organization.				
110-2222-522-2516		Other Services / Judgments & Damages	\$ 1,030	
110-0000-461-0554		Insurance Claims / Insurance Claims		\$ 1,030
To appropriate insurance proceeds received from Progressive for damages sustained to asset 13515 on 09/27/19.				
260-6100-571-2518	102197	Other Services / Other - Miscellaneous	\$ 107,302	
260-6100-571-6315		Capital Buildings & Grounds / Sidewalk/Curb/Gutter - FY 20	\$ 11,135	
260-6150-571-2116		Supplies / Supplies & Tools	\$ 1	
260-6000-515-2518		Other Services / Other - Miscellaneous		\$ 48,108
260-6140-571-2625		Contracted Services / Advertising/Legals		\$ 1
260-6150-571-2518		Other Services / Other - Miscellaneous		\$ 70,329
To adjust the amounts carried forward within CDBG for projects that have been completed and the funds have now been reallocated.				
TOTAL AMENDMENTS			\$ 170,468	\$ 170,468
GENERAL FUND				
Beginning Contingency Balance			\$	-
Added to Contingency Sweep Account				-
Carry forward from Prior Year				-
Taken From Contingency				-
Net Balance of Contingency Account			\$	-
Beginning Judgments & Damages Contingency			\$	-
Added to Contingency Judgments & Damages from Council Contingency				-
Taken From Judgments & Damages				-
Net Balance of Judgments & Damages Contingency Account			\$	-
Beginning Compensation Contingency			\$	506,197
Added to Compensation Contingency				-
Taken From Compensation Contingency				-
Net Balance of Compensation Contingency Account			\$	506,197
Net Balance Council Contingency			\$	506,197
Beginning Balance Budget Sweep Contingency			\$	-
Added to Budget Sweep Contingency				-
Taken From Budget Sweep				-
Net Balance of Budget Sweep Contingency Account			\$	-

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2020 BUDGET
December 5, 2019

		APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit Credit
		WATER & WASTEWATER FUND	
		Beginning Contingency Balance	\$ 100,000
		Added to Contingency Sweep Account	-
		Taken From Contingency	-
		Net Balance of Contingency Account	\$ 100,000
		Beginning Compensation Contingency	\$ 93,500
		Added to Compensation Contingency	-
		Taken From Compensation Contingency	-
		Net Balance of Compensation Contingency Account	\$ 93,500
		Net Balance Water & Wastewater Fund Contingency	\$ 193,500
		HOTEL/MOTEL TAX FUND	
		Beginning Contingency Balance	\$ -
		Added to Contingency Sweep Account	-
		Carry forward from Prior Year	-
		Taken From Contingency	-
		Net Balance of Contingency Account	\$ -
		Beginning Compensation Contingency	\$ 19,500
		Added to Compensation Contingency	-
		Taken From Compensation Contingency	-
		Net Balance of Compensation Contingency Account	\$ 19,500
		Net Balance Hotel/Motel Tax Fund Contingency	\$ 19,500
		DRAINAGE FUND	
		Beginning Contingency Balance	\$ 488,446
		Added to Contingency Sweep Account	-
		Carry forward from Prior Year	-
		Taken From Contingency	-
		Net Balance of Contingency Account	\$ 488,446
		Beginning Compensation Contingency	\$ 10,500
		Added to Compensation Contingency	-
		Taken From Compensation Contingency	-
		Net Balance of Compensation Contingency Account	\$ 10,500
		Net Balance Drainage Fund Contingency	\$ 498,946
		FED/STATE GRANT FUND	
		Beginning Contingency Balance	\$ -
		Carry forward from Prior Year	-
		Added to Contingency Sweep Account	-
		Taken From Contingency	-
		Net Balance Fed/State Grant Fund Contingency	\$ -

RESOLUTION NO. 2019-9923-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING BUDGET AMENDMENTS TO THE 2019-2020 CITY BUDGET; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on the 19th day of September, 2019, the City Council approved a budget for the 2019-2020 fiscal year; and

Whereas, the City Council deems it in the public interest to make certain amendments to the 2019-2020 City Budget.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

Part 2: The City Council hereby amends the 2019-2020 City Budget by adopting the budget amendments which are more fully described in Exhibit 'A,' attached hereto and made a part hereof for all purposes.

Part 3: It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 5th day of **December**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephanie Hedrick
Deputy City Secretary

Kayla Landeros
Interim City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/05/19

Item #6

Regular Agenda

Page 1 of 2

DEPT. / DIVISION SUBMISSION REVIEW:

Jason Deckman, Planner

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – FY-20-1-ZC: Consider adopting an ordinance authorizing a Conditional Use Permit with a site plan to allow a veterinary hospital and kennels at 610 Hilliard Road, Temple, Texas.

PLANNING & ZONING COMMISSION RECOMMENDATION: During the meeting on November 4, 2019, the Planning & Zoning Commission voted 7 to 1 to recommend approval per staff's recommendation.

STAFF RECOMMENDATION: Staff recommends approval of for the following reasons:

1. The request is compatible with surrounding and anticipated uses;
2. Public facilities are available to serve the property; and
3. Demonstrated compliance with the CUP review criteria in UDC Section 3.5.4.

Staff recommends Approval of the Conditional Use Permit subject to the following conditions:

1. Substantial compliance with the Site Plan, attached as Exhibit A
2. Construction of a 6' sidewalk with 4' planting strip along Hilliard Road
3. Fenced areas shown on the Site Plan will be screened by a 6' solid privacy fence
4. Animals allowed outside will be limited to the supervised exercise of dogs within the fenced areas shown on the site plan
5. Animals will be housed only within the first floor of the primary structure as shown on the attached floor plan
6. No livestock on the property
7. That the Director of Planning may be authorized to approve minor changes to the site plan, which may include but are not limited to: building footprint configuration, exterior building materials, and landscaping

ITEM SUMMARY: The applicant proposes to convert the residential home at 610 Hilliard Road into a veterinary hospital. The property is zoned Agricultural, which allows for the use, subject to a Conditional Use Permit.

BACKGROUND: The homes along this section of Hilliard Road were constructed in 1999 and were subject to deed restrictions constraining the future development of any of the properties to residential use only. These deed restrictions were released by the five owners in April 2019 and recorded in the property records of Bell County on August 19th, 2019.

The applicant proposes to convert the residence to a veterinary hospital with exam rooms, surgery, treatment areas, offices, and indoor kennel areas for cats and dogs. In consideration of the welfare of the animals as well as respect for the neighbors, no animals will be kept outdoors. However, animals under the care of a doctor may receive supervised exercise in the outdoor fenced area shown on the site plan. As a condition of approval, the outdoor fenced areas will be screened by a 6-foot-tall solid privacy fence.

While the property is zoned Agricultural, the proximity to nearby residential may not be appropriate for large animals or livestock. Staff has included a condition limiting treatment to smaller household pets.

DEVELOPMENT REGULATIONS: The veterinary hospital use is listed under the retail category in the Use Tables in UDC Section 5.1. The change in use from residential to non-residential requires application of certain development regulations. The site plan shows two fenced yards, a widened driveway, and parking areas. At a minimum, 15 parking spaces will be required according to the ratios listed in UDC 7.5.4 and 15 spaces are shown on the plan. Other requirements for building standards will be applied during permitting.

DEVELOPMENT REVIEW COMMITTEE (DRC): Members of the DRC reviewed the proposed conditional use permit and site plan. The issues identified were screening of areas used for exercising animals, sidewalks, parking, and impact on the neighboring residential properties.

PUBLIC NOTICE: Eleven notices of the public hearing were sent out to property owners within 200-feet of the subject property as required by State law and City Ordinance. As of Monday, November 18, 2019 at 12:00 pm, two notices in agreement have been received. Staff will provide an update to Council if necessary.

The newspaper printed notice of the Planning and Zoning Commission public hearing on October 24, 2019, in accordance with state law and local ordinance.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Site Plan \(Exhibit A\)](#)

[Maps](#)

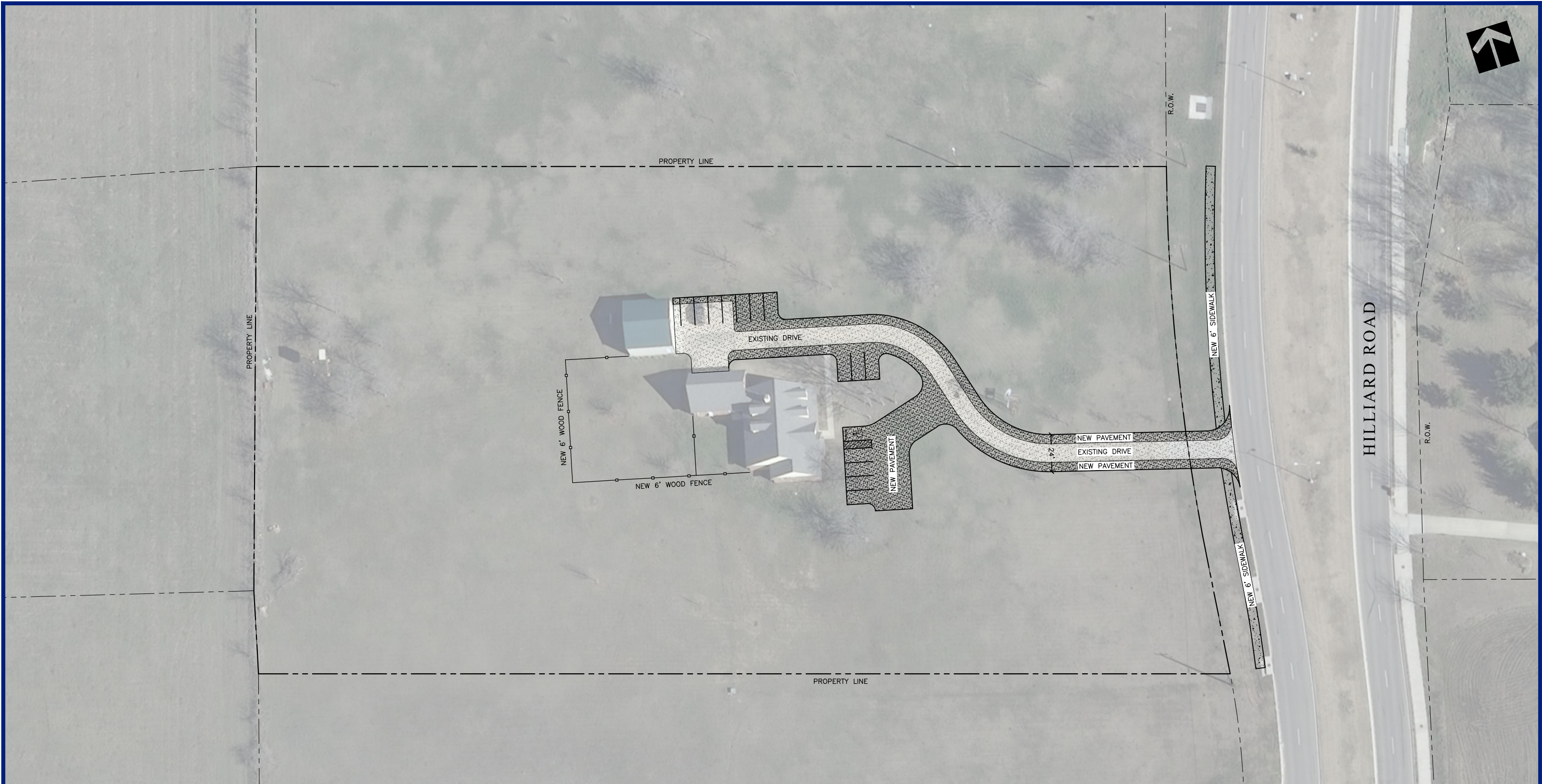
[Conditional Use Permit Review Criteria Table \(UDC Section 3.5.4 \(A-G\)\)](#)

[Site Photos](#)

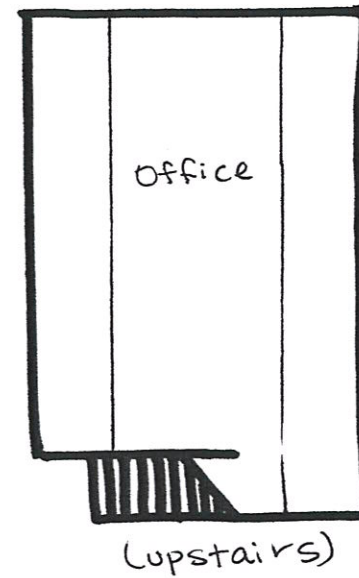
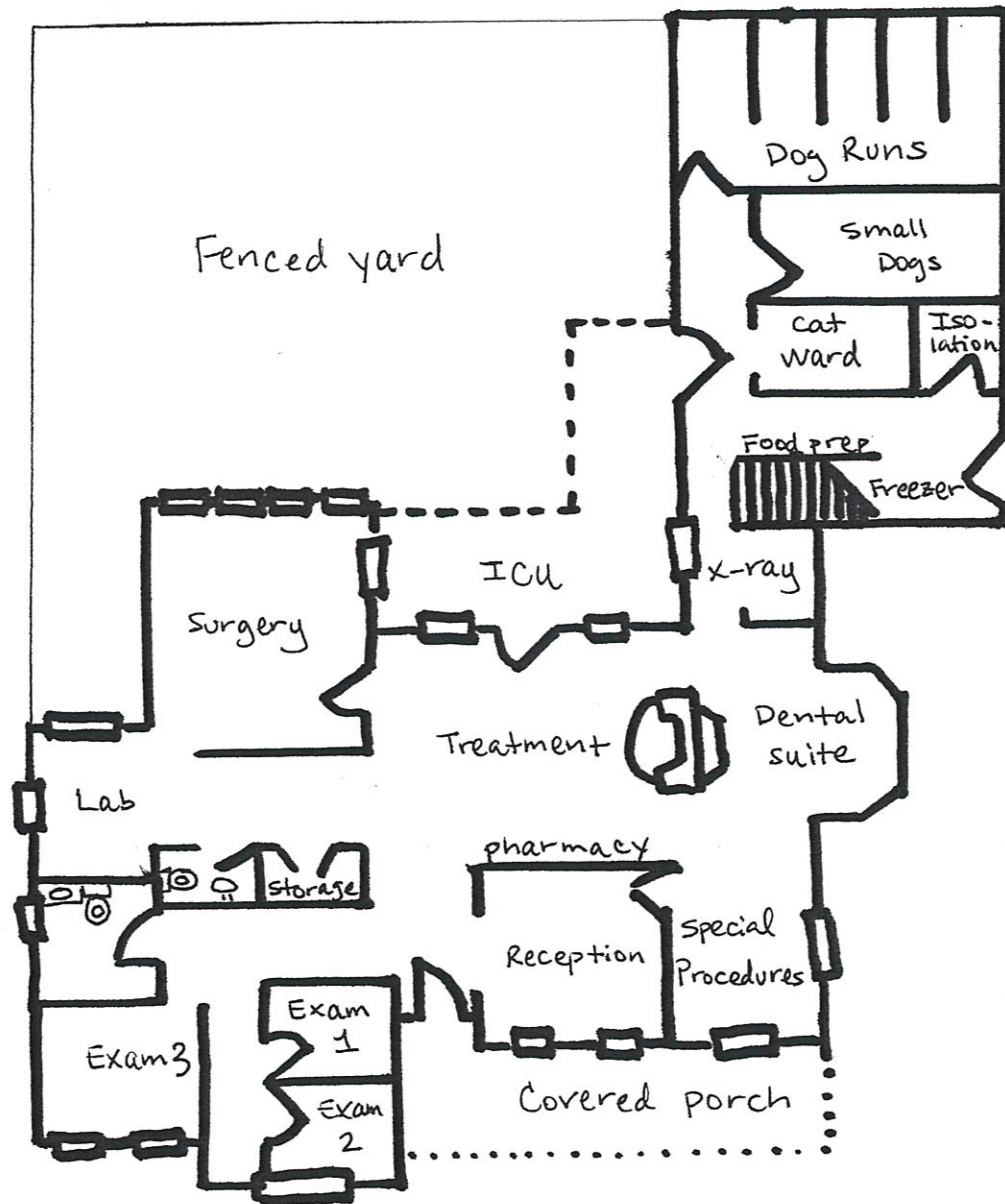
[Returned Property Notices](#)

[Recorded Release of Deed Restrictions](#)

[Ordinance](#)



HILLIARD VETERINARY HOSPITAL









VICINITY MAP

Zoning Case :
FY-20-1-ZC

Address :
610 Hilliard Rd



Transportation

Streets

-  MAJOR ARTERIAL
-  COLLECTOR
-  LOCAL STREET
-  MINOR ARTERIAL

 Temple Municipal Boundary

Parcel Features

-  Parcels
-  Production.SDE.Easement

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

jdeckman

Date: 10/21/2019



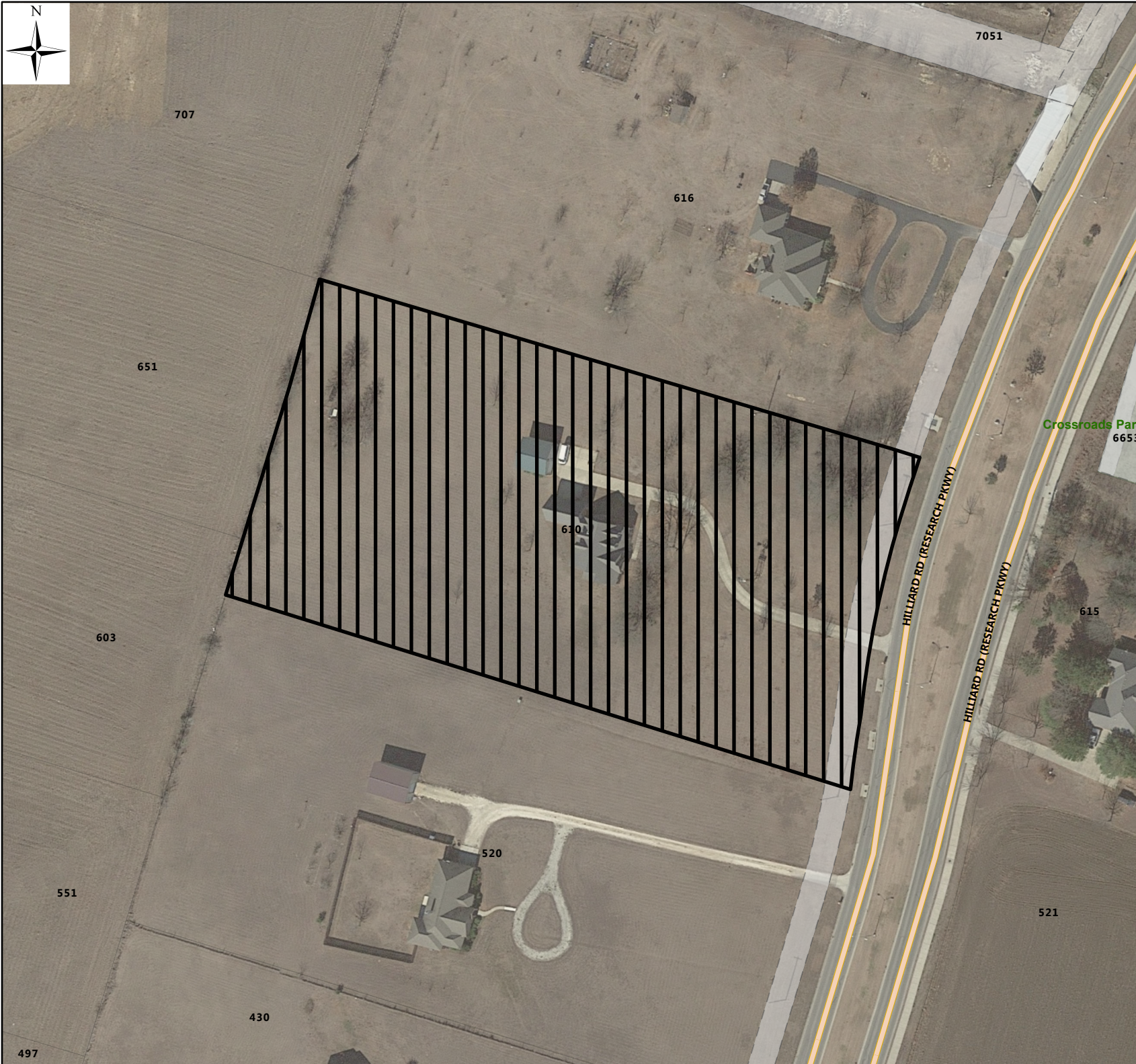


Conditional Use Permit

AERIAL MAP

Zoning Case :
FY-20-1-ZC

Address :
610 Hilliard Rd



Transportation

Streets

MAJOR ARTERIAL

Temple Municipal Boundary

Parcel Features

Parcels

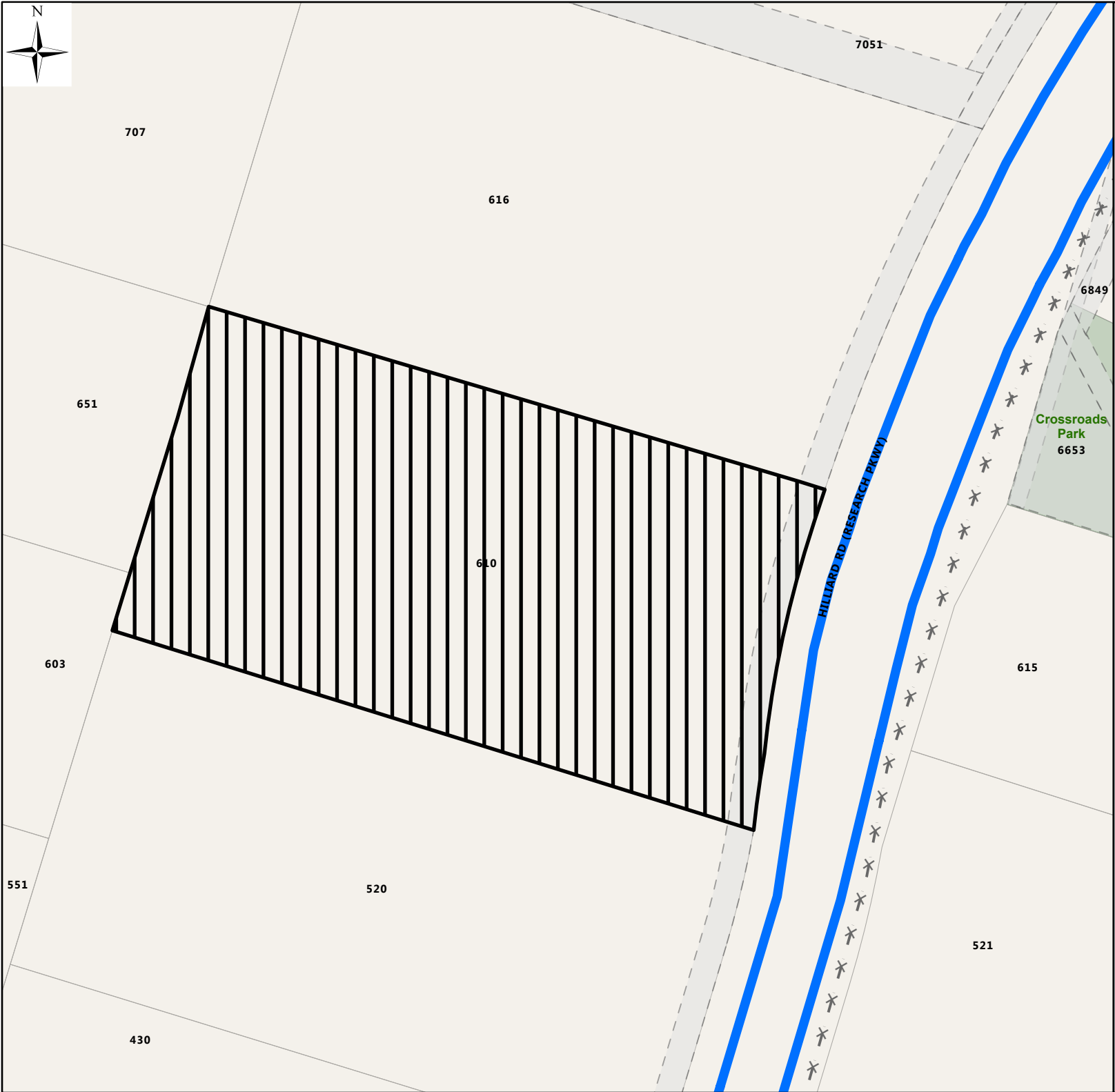
Production.SDE.Easement

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jdeckman

Date: 10/21/2019





Conditional Use Permit THOROUGHFARE AND TRAILS MAP

Zoning Case :
FY-20-1-ZC

Address :
610 Hilliard Rd

Parcel Features

Parcels

Thoroughfare Plan

- Expressway
- Major Arterial
- Proposed Major Arterial
- Minor Arterial
- Proposed Minor Arterial
- Collector
- Proposed Collector

- EXISTING, COMMUNITY WIDE CONNECTOR
- EXISTING, LOCAL CONNECTOR
- PROPOSED, CITY WIDE SPINE
- PROPOSED, COMMUNITY WIDE CONNECTOR
- PROPOSED, LOCAL CONNECTOR
- Easement

Trails Master Plan

- EXISTING, CITY WIDE SPINE

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

jdeckman
Date: 10/21/2019





Conditional Use Permit

UTILITY MAP

Zoning Case :
FY-20-1-ZC

Address :
610 Hilliard Rd

Sewer

- Manhole
- Gravity Main

WaterDistribution

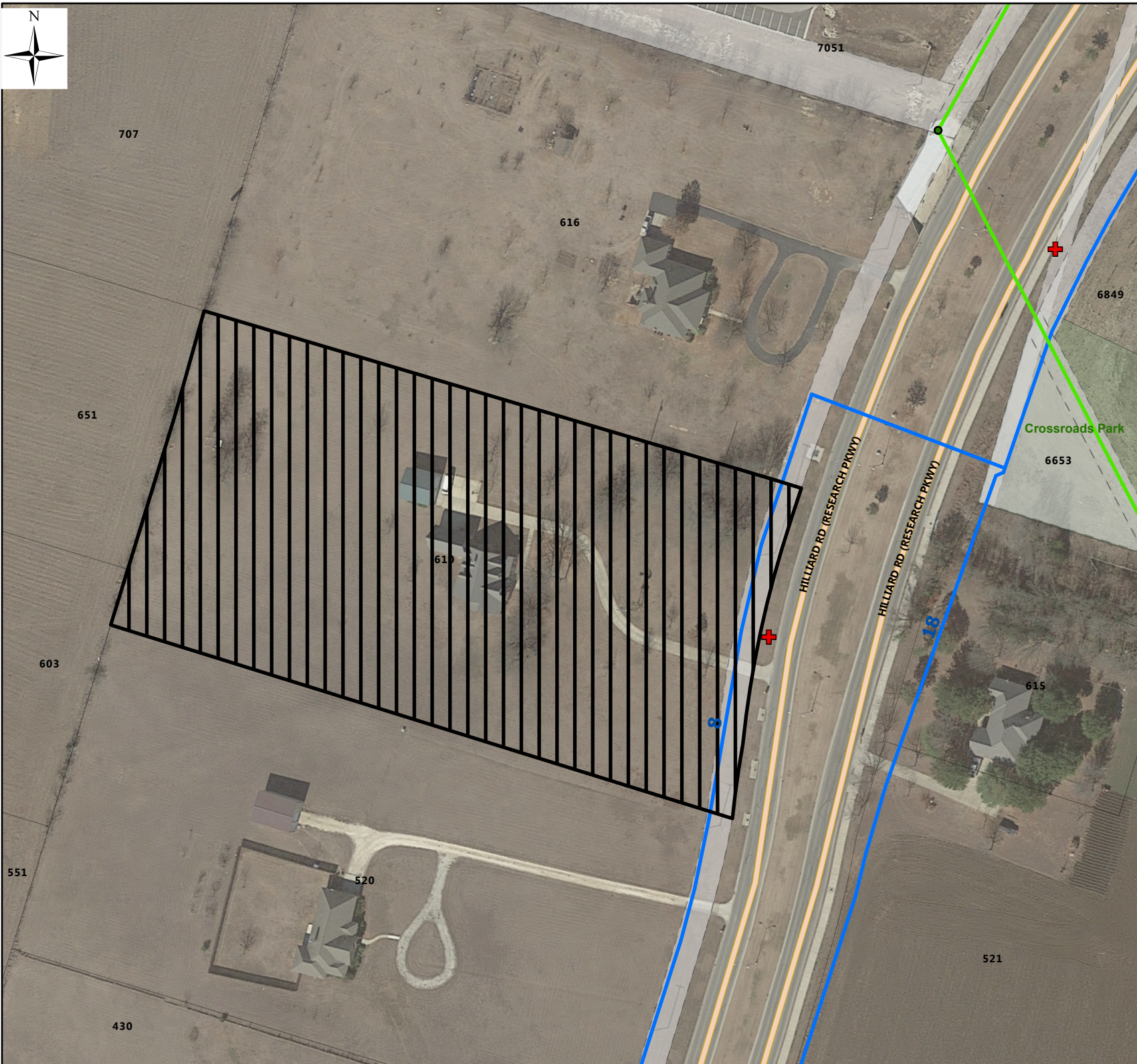
- ✚ Hydrant
- Main

Parcel Features

- Parcels
- Easement

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jdeckman
Date: 10/21/2019





Conditional Use Permit

200' NOTIFICATION MAP

Zoning Case :
FY-20-1-ZC

Address :
610 Hilliard Rd

CurrentZoning		
HI - CUP	O-1	AG - CUP
UE	O-1 - CUP	MH
SF-1	O-1 - PD	MH - CUP
SF-1 - CUP	O-2	MH - PD
SF-1 - PD	O-2 - CUP	MU
SF-2	O-2 - PD	MU - CUP
SF-2 - PD	NS	SD-C
SF-3	NS - CUP	SD-C - CUP
SF-3 - PD	NS - PD	SD-H
SF-3 - CUP, PD	GR	SD-H - CUP
SFA	GR - CUP	SD-T
SFA-2	GR - PD	SD-V
SFA-2 - PD	GR - CUP, PD	T4
SFA-3	CA	T4 - PD
SFA-3 - PD	CA - CUP	T4 - CUP
2F	CA - PD	T5-C
2F - CUP	C	T5-C - CUP
2F - PD	C - CUP	T5-C - PD
MF-1	C - PD	T5-E
MF-1 - CUP	C - CUP, PD	T5-E - CUP
MF-1 - PD	LI	T5-E - PD
MF-2	LI - CUP	NO BASE
MF-2 - CUP	LI - PD	CUP
MF-2 - PD	LI - CUP, PD	PD
MF-3 - PD	HI	Easement
	HI - PD	
	AG	

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

jdeckman

Date: 10/21/2019



UDC Code Section 3.5.4	Criteria met?	Discussion
A. The conditional use is compatible with and not injurious to the use and enjoyment of the property and does not significantly diminish or impair property values within the immediate area.	Yes	The use is compatible with surrounding properties. The applicant will convert the existing home to a veterinary hospital but will preserve the residential character of the structure. Maintaining the aesthetics to match surrounding properties and will not diminish property values.
B. The establishment of the conditional use does not impede normal and orderly development and improvement of surrounding vacant property.	Yes	A number of adjacent properties have previously been rezoned from residential to General Retail. Changing the use on this property will not impede future development on neighboring properties.
C. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided.	Yes	The subject property is located on an arterial road and has access to municipal water supply. The existing structure is served by a septic system. The large lot exceeds the minimum size required by the county health department for on-site septic.
D. The design, location and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development.	Yes	The site plan shows that the existing driveway will be widened to allow for two way entrance and exit onto Hilliard Road. Parking is shown located around the existing structure and meets minimum parking ratios. A new sidewalk along Hilliard Road will enhance pedestrian walkability.
E. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration.	Yes	Conditions have been established specifically to minimize noise and limit the outdoor activity of any animals. No livestock will be allowed and all kennels will be indoors.
F. Directional lighting is provided so as not to disturb or adversely affect neighboring properties.	Yes	Any lighting will be reviewed during permitting to ensure compliance with code and minimize light spillage.
G. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.	Yes	The large lot (4.62 acres) provides separation from neighboring uses and fenced areas provide a measure of buffering and screening.



Facing north along Hilliard Road



Facing south along Hilliard Road



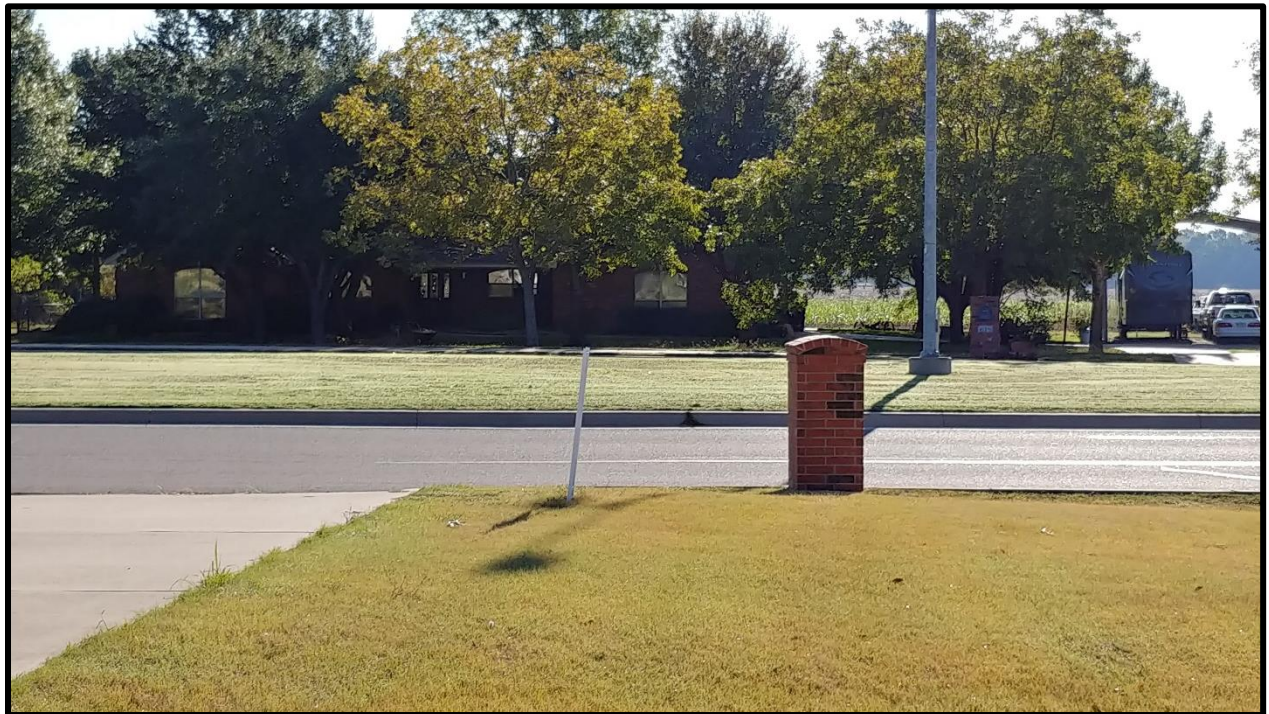
Facing the neighboring home to the north



Facing the neighboring home to the south



Facing west into the subject property



Facing east from the subject property across Hilliard Road

AFTER RECORDING, RETURN TO:
Baird, Crews, Schiller & Whitaker, P.C.
15 North Main Street
Temple, Texas 76501

RELEASE OF DEED RESTRICTIONS

This Release of Restrictive Covenants (the "Release") is made and entered into by and between the owners set forth on the attached Exhibit A, which may be individually referred to as an "Owner" and collectively as the "Owners".

RECITALS:

Whereas, the Owners own property in a common scheme or development (each a "Property" and collectively the "Properties"), which may be encumbered by deed restrictions or restrictive covenants more particularly described on attached Exhibit B (the "Deed Restrictions");

Whereas, the Deed Restrictions limit the use of the Property and its future development;

Whereas, the intent of this Release is to terminate and release the Deed Restrictions, to the extent they apply, as to all the Properties;

Whereas, the Owners have agreed to terminate the Deed Restrictions, to the extent they are existing and enforceable, as to all of the Properties;

NOW THEREFORE, for valuable consideration exchanged and the mutual benefit derived by each of the Owners mutually agree as follows:

1. By this Release, the Owners hereby remove, release, and waive all of the Deed Restrictions set forth on Exhibit B to the extent they apply or encumber all or a part of the Properties.
2. By this Release, the Owners hereby remove, release, and waive the Deed Restrictions and following execution and recording of this Release, the Properties may be used for any use allowed by applicable zoning laws.
3. The Owners hereby waive any right to take action or enforce any of the Deed Restrictions.
4. All of the terms, covenants, and provisions of this Release shall be binding upon and inure to the benefit of and be enforceable by the Owners hereto and their respective successors, assigns, heirs and other legal representatives.
5. This Release may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
6. The attached exhibits are hereby incorporated by reference and made a part hereof.
7. The Owners agree to execute and deliver such additional instruments and documents and take such additional actions as may be reasonably required from time to time in order to effectuate the provisions and purposes of this Release.

DATED to be effective on the date the last Owner signs this Release, but in any event on the date this Release of Deed Restrictions is recorded in the Official Public Records of Real Property of Bell County, Texas.

OWNER:

Robert H. Schlieker
Robert H. Schlieker

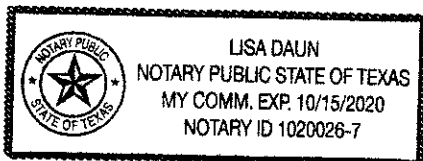
Owner's Address:
616 Hilliard Road
Temple, Texas 76502 (Bell County)

THE STATE OF TEXAS §

COUNTY OF BELL §


This instrument was acknowledged before me on the 11th day of April, 2019, by
Robert H. Schlieker.


Lisa Daun
Notary Public in and for the State of Texas



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OWNER:


Allen Cassel, Jr.

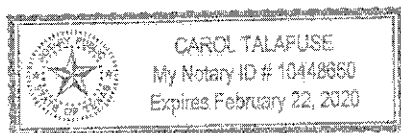

Sharyl Cassel

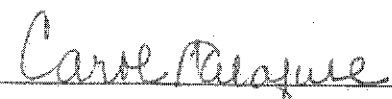
Mailing Address:
1610 S. 31st Street
Temple, Texas 76504 (Bell County)

THE STATE OF TEXAS §

COUNTY OF BELL §

This instrument was acknowledged before me on the 12th day of April, 2019, by
Allen Cassel, Jr.




Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BELL §

This instrument was acknowledged before me on the 12th day of April, 2019, by
Sharyl Cassel.




Notary Public in and for the State of Texas

OWNER:

Ronald L. Orsag
Ronald L. Orsag

Melanie Orsag
Melanie A. Orsag

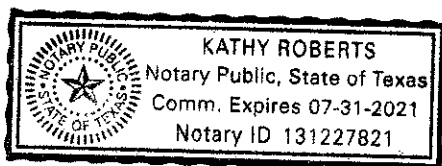
Mailing Address:
520 Hilliard Road
Temple, Texas 76502

THE STATE OF TEXAS §

COUNTY OF BELL §

This instrument was acknowledged before me on the 12th day of April, 2019, by
Ronald L. Orsag.

Kathy Roberts
Notary Public in and for the State of Texas

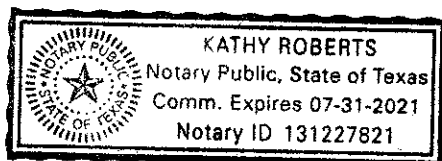


THE STATE OF TEXAS §

COUNTY OF BELL §

This instrument was acknowledged before me on the 13th day of April, 2019, by
Melanie A. Orsag.

Kathy Roberts
Notary Public in and for the State of Texas



OWNER:

James Richard Mendenhall
James Richard Mendenhall

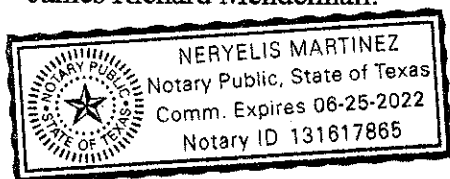
Erika Lynn Mendenhall
Erika Lynn Mendenhall

Mailing Address:
430 Hilliard Road
Temple, Texas 76502 (Bell County)

THE STATE OF TEXAS §

COUNTY OF BELL §

This instrument was acknowledged before me on the 18 day of April, 2019, by
James Richard Mendenhall.

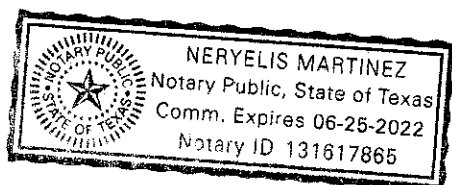


[Signature]
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BELL §

This instrument was acknowledged before me on the 18 day of April, 2019, by
Erika Lynn Mendenhall.



[Signature]
Notary Public in and for the State of Texas

OWNER:

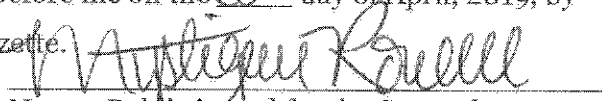

Vernal D. Gazette, a/k/a Vernal Douglas Gazette

Owner's Address:
418 Hilliard Road
Temple, Texas 76502 (Bell County)

THE STATE OF TEXAS §

COUNTY OF BELL §

This instrument was acknowledged before me on the 20th day of April, 2019, by
Vernal D. Gazette, a/k/a Vernal Douglas Gazette.


Notary Public in and for the State of Texas

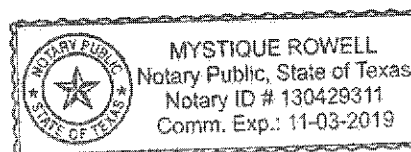


Exhibit A
Owners and Properties

OWNER

LEGAL DESCRIPTION

James Richard Mendenhall,
and Erika Lynn Mendenhall

Lot 1, Block 1, Fernandez Addition, City of
Temple, Bell County, Texas, according to the
map or plat of record in Cabinet C, Slide 196-
D, Plat Records of Bell County, Texas

Vernal D. Gazette aka Vernal
Douglas

Lot 2, Block 1, Fernandez Addition, City of
Temple, Bell County, Texas, according to the
map or plat of record in Cabinet C, Slide 196-
D, Plat Records of Bell County, Texas

Ronald L. Orsag, and Melanie
A. Orsag

Approximately 4.82 acres in the Nancy Chance
Survey, Bell County, Texas, out of a 5.0 acre
tract more particularly described in attached
Exhibit C

Allen Cassel, Jr., and Sharyl
Cassel

Approximately 4.62 acres in the Nancy Chance
Survey, Bell County, Texas, out of a 5.0 acre
tract more particularly described in attached
Exhibit D

Robert H. Schlieker

Approximately 5.58 acres in the Nancy Chance
Survey, Bell County, Texas, more particularly
described in attached Exhibit E

RELEASE OF DEED RESTRICTIONS

Exhibit B
Restrictions Terminated by this Release

- 1) Volume 4321, Page 704, Real Property Records of Bell County, Texas
- 2) Volume 3820, Page 286, Real Property Records of Bell County, Texas
- 3) Volume 4013, Page 25, Real Property Records of Bell County, Texas
- 4) Any and all other restrictions restricting the Properties to residential use

RELEASE OF DEED RESTRICTIONS

EXHIBIT "C"

5.00 Acres, being part of the NANCY CHANCE SURVEY, ABSTRACT NO. 5, in Bell County, Texas, being a portion of that certain called 20 acre tract described in a deed to PEDRO ARMANDO FERNANDEZ and wife, MARGO FERNANDEZ, of record in Volume 2647, Page 246 of the Official Public Records of Real Property of Bell County, Texas, said 20 acres being a tract which was severed from that certain called 105 acre tract described in a Decree of Partition in the District Court of Bureson County, Texas, in Cause No. 934, of record in Volume 68, Page 536 of the Deed Records of Bell County, Texas, said 5.00 acre tract being more particularly described by these metes and bounds as follows:

BEGINNING at a 5/8" iron rod set, being the northeast corner of this tract, from which a 3/4" metal pipe found, being the northeast corner of said FERNANDEZ tract, bears: NORTH 21 deg 47 min 30 sec EAST, a distance of 695.43 feet.

THENCE in a southerly direction, crossing said FERNANDEZ tract, SOUTH 18 deg 54 min 24 sec WEST, a distance of 327.72 feet to a 5/8" iron rod set, being the southeast corner of this tract, from which a 3/4" metal pipe found, being the southeast corner of said FERNANDEZ tract, bears: SOUTH 12 deg 48 min 37 sec WEST, a distance of 329.55 feet.

THENCE in a westerly direction, continuing across said FERNANDEZ tract, NORTH 70 deg 42 min 50 sec WEST, a distance of 664.87 feet to a 5/8" iron rod set in the west line of said FERNANDEZ tract, being the southwest corner of this tract, from which a 3/4" metal pipe found, being the southwest corner of said FERNANDEZ tract, bears: SOUTH 19 deg 00 min 00 sec WEST, a distance of 327.45 feet.

THENCE in a northerly direction, with the west line of said FERNANDEZ tract (second cul of N 19 deg E. 473-112 varas), NORTH 19 deg 00 min 00 sec EAST, a distance of 327.72 feet to a 5/8" iron rod set, being the northwest corner of this tract, from which a 3/4" metal pipe found, being the northwest corner of said FERNANDEZ tract, bears: NORTH 19 deg 00 min 00 sec EAST, a distance of 695.53 feet.

THENCE in an easterly direction, crossing said FERNANDEZ tract, SOUTH 70 deg 42 min 50 sec EAST, a distance of 664.34 feet to the Point of Beginning, Containing 5.00 Acres.

EXHIBIT "D"

FIELD NOTES PREPARED BY ALL COUNTY SURVEYING, INC.

April 28, 1999

Surveyor's Field Notes for ALLEN CASSEL, for:

5.00 Acres, being part of the NANCY CHANCE SURVEY, ABSTRACT NO. 5, in Bell County, Texas, being a portion of that certain called 20 acre tract described in a deed to PEDRO ARMANDO FERNANDEZ and wife, MARGO FERNANDEZ, of record in Volume 2647, Page 246 of the Official Public Records of Real Property of Bell County, Texas, said 20 acres being a tract which was severed from that certain called 105 acre tract described in a Decree of Partition in the District Court of Burleson County, Texas, in Cause No. 934, of record in Volume 68, Page 536 of the Deed Records of Bell County, Texas, said 5.00 acre tract being more particularly described by these metes and bounds as follows:

BEGINNING at a 5/8" iron rod set with a plastic cap marked with "ALL COUNTY" in the west line of that certain called 1.08 acre tract described in a deed to the CITY OF TEMPLE, of record in Volume 3856, Page 547 of the Official Public Records of Real Property of Bell County, Texas, being the northeast corner of this tract, from which a 3/4" metal pipe found, being the northeast corner of said FERNANDEZ tract, bears: NORTH 24 deg 17 min 51 sec EAST, a distance of 368.42 feet, also from said 5/8" iron rod set, a 5/8" iron rod found, being the northwest corner of said 1.08 acre tract, bears: NORTH 18 deg 54 min 24 sec EAST, a distance of 368.92 feet.

THENCE in a southerly direction, with the west line of said CITY OF TEMPLE tract, crossing said FERNANDEZ tract, SOUTH 18 deg 54 min 24 sec WEST, a distance of 327.79 feet to a 5/8" iron rod found, being the northeast corner of that certain called 5.00 acre tract described in a deed to RONALD L. ORSAG and MELANIE A. ORSAG, husband and wife, of record in Volume 3825, Page 309 of the Official Public Records of Real Property of Bell County, Texas, and being the southeast corner of this tract, from which a 5/8" iron rod found, being the southeast corner of said ORSAG tract, bears: SOUTH 18 deg 54 min 24 sec WEST, a distance of 327.79 feet.

THENCE in a westerly direction, with the north line of said ORSAG tract, continuing across said FERNANDEZ tract, NORTH 70 deg 42 min 38 sec WEST, a distance of 664.45 feet to a 5/8" iron rod set with a plastic cap marked "ALL COUNTY" in the west line of said FERNANDEZ tract, being the northwest corner of said ORSAG tract, and being the southwest corner of this tract, from which a 3/4" metal pipe found, being the southwest corner of said FERNANDEZ tract, bears: SOUTH 19 deg 00 min 00 sec WEST, a distance of 655.30 feet.

EXHIBIT "D" CONTINUED

Surveyor's Field Notes for ALLEN CASSEL, continued:

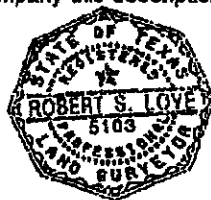
THENCE in a northerly direction, with the west line of said FERNANDEZ tract (record call of N 19 deg E, 475-1/2 varas), NORTH 19 deg 00 min 00 sec EAST, a distance of 327.78 feet to a 5/8" iron rod set with a plastic cap marked "ALL COUNTY", being the northwest corner of this tract, from which a 3/4" metal pipe found, being the northwest corner of said FERNANDEZ tract, bears: NORTH 19 deg 00 min 00 sec EAST, a distance of 365.75 feet.

THENCE in an easterly direction, crossing said FERNANDEZ tract, SOUTH 70 deg 42 min 38 sec EAST, a distance of 663.92 feet to the Point of Beginning. Containing 5.00 Acres.

** Survey monuments found along the west line of said FERNANDEZ tract, as shown on the Surveyor's sketch that is to accompany this description, were used for directional control.

Surveyed April 28, 1999

ALL COUNTY SURVEYING
1 (800) 749 - PLAT
Disk FNS1003 (980592.fns)



Robert S. Love 4.30.99
Robert S. Love
Registered Professional Land Surveyor
Registration No. 5103

EXHIBIT "E"

FIELD NOTES PREPARED BY ALL COUNTY SURVEYING, INC.

August 28, 1999

Surveyor's Field Notes for ROBERT SCHLIEKER, for:

5.58 Acres, being part of the NANCY CHANCE SURVEY, ABSTRACT NO. 5, in Bell County, Texas, being a portion of that certain called 20 acre tract described in a deed to PEDRO ARMANDO FERNANDEZ and wife, MARGO FERNANDEZ, of record in Volume 2847, Page 246 of the Official Public Records of Real Property of Bell County, Texas, said 20 acres being a tract which was severed from that certain called 105 acre tract described in a Decree of Partition in the District Court of Burleson County, Texas, in Cause No. 934, of record in Volume 68, Page 535 of the Deed Records of Bell County, Texas; said 5.58 acre tract being more particularly described by these notes and bounds as follows:

BEGINNING at a 1/2" iron rod found for an angle point in the west right-of-way of a public maintained roadway known as HILLIARD ROAD, said right-of-way was created by the conveyance of that certain called 1.08 acre tract to the CITY OF TEMPLE by deed of record in Volume 3856, Page 547 of the Official Public Records of Real Property of Bell County, Texas, said iron rod being the northwest corner of said 1.08 acre R. O. W. tract, same being the northeast corner of this tract, also being in the north line of said FERNANDEZ tract, same being the south line of that certain called 86.33 acre tract described in a deed to EDGAR L. VON ROSENBERG and RAY T. VON ROSENBERG, of record in Volume 1208, Page 789 of the Deed Records of Bell County, Texas, from which a 3/4" metal pipe found for the northeast corner of said 1.08 acre R. O. W. tract, same being the northeast corner of said FERNANDEZ tract, bears SOUTH 70 deg 51 min 21 sec EAST, a distance of 34.91 feet.

THENCE in a southerly direction, leaving the north line of said FERNANDEZ tract, and crossing said FERNANDEZ tract, with the west right-of-way of said HILLIARD ROAD, same being the west line of said 1.08 acre R. O. W. tract (record call S 18 deg 54 min 24 sec W, 1349.89 feet) SOUTH 18 deg 52 min 37 sec WEST, a distance of 366.95 feet to a 5/8" iron rod with plastic cap marked "All County" found for the northeast corner of that certain called 5.00 acre tract described in a deed to ALLEN CASSEL, JR. and SHARYL CASSEL, of record in Volume 4013, Page 25 of the Official Public Records of Real Property of Bell County, Texas, same being the southeast corner of this tract.

THENCE in a westerly direction, leaving the west right-of-way of said HILLIARD ROAD, continuing across said FERNANDEZ tract, with the north line of said CASSEL tract (record call N 70 deg 42 min 38 sec W, 663.92 feet) NORTH 70 deg 42 min 38 sec WEST, a distance of 663.91 feet to a 5/8" iron rod with plastic cap marked "All County" found in the west line of said FERNANDEZ tract, said iron rod being the northwest corner of said CASSEL tract, same being the southwest corner of this tract, from which a 5/8" iron rod with plastic cap marked "All County" found for the southwest corner of said CASSEL tract bears SOUTH 18 deg 58 min 11 sec WEST, a distance of 327.85 feet.

THENCE in a northerly direction, with the west line of said FERNANDEZ tract (record call N 19 deg E, 475 1/2 varas), NORTH 19 deg 00 min 00 sec EAST, a distance of 365.27 feet to a 3/4" metal pipe found for the northwest corner of said FERNANDEZ tract and the northwest corner of this tract, same being in the south line of said VON ROSENBERG tract.

EXHIBIT "E" CONTINUED

2

Surveyor's Field Notes for ROBERT SCHLIEKER, continued:

THENCE in an easterly direction, with the north line of said FERNANDEZ tract (record call S 71 deg E, 237.43 vmas), same being the south line of said VON ROSENBERG tract, SOUTH 70 deg 51 min 21 sec EAST, a distance of 663.12 feet to the Point of Beginning, Containing 5.68 Acres.

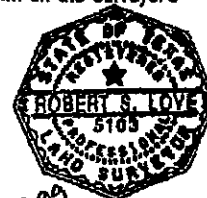
Survey monuments found along the west line of said FERNANDEZ tract, as shown on the Surveyor's sketch that is to accompany this description, were used for directional control.

Surveyed August 23, 1999

ALL COUNTY SURVEYING

1 (800) 749 - PLAT

Disk FNS2000 (890897.ins)



Robert S. Love 8-27-99
Robert S. Love
Registered Professional Land Surveyor
Registration No. 5103

**** Electronically Filed Document ****

**Bell County, Tx
Shelley Coston
County Clerk**

Document Number: 2019-37016

Recorded As : ERX-RECORDINGS

Recorded On: August 19, 2019
Recorded At: 02:49:40 pm
Number of Pages: 14
Book-VI/Pg: Bk-OR VI-10966 Pg-495
Recording Fee: \$59.00

Parties:

Direct- MENDENHALL JAMES RICHARD

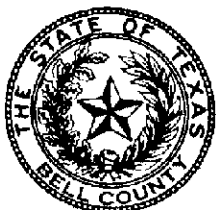
Indirect- EX PARTE

Receipt Number: 381146
Processed By: Jackie McLean

(Parties listed above are for Clerks reference only)

***** **THIS PAGE IS PART OF THE INSTRUMENT** *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.



I hereby certify that this instrument was filed on the date and time stamped hereon and was duly recorded in the Real Property Records in Bell County, Texas

**Shelley Coston
Bell County Clerk**

A handwritten signature in cursive script that reads "Shelley Coston".



**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

209218
SCHLIEKER, ROBERT H
616 HILLIARD RD
TEMPLE, TX 76502-4701

Zoning Application Number: FY-20-1-ZC

Case Manager: Jason Deckman

Location: 610 Hilliard Road, Temple, Texas

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ agree

() disagree with this request

Comments:

Signature

Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, jdeckman@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than **November 4, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 11

Date Mailed: October 23, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

335246
HERING, DEBRA ET VIR JAMES
615 HILLIARD RD
TEMPLE, TX 76502-4713

RECEIVED
CITY OF TEMPLE
PLANNING & DEVELOPMENT

Zoning Application Number: FY-20-1-ZC

Case Manager: Jason Deckman

Location: 610 Hilliard Road, Temple, Texas

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ **agree**

() **disagree with this request**

Comments:

Debbie Hering

Signature

DEBBIE HERING

Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, jdeckman@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than **November 4, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 11

Date Mailed: October 23, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.

ORDINANCE NO. 2019-5010
(FY-20-1-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,
AUTHORIZING A CONDITIONAL USE PERMIT WITH A SITE PLAN TO
ALLOW A VETERINARY HOSPITAL AT 610 HILLIARD ROAD, TEMPLE,
TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN
EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the applicant proposes to convert a residence located at 610 Hilliard Road into a veterinary hospital with exam rooms, surgery and treatment areas, offices, and indoor kennel areas for cats and dogs-- in consideration of the welfare of the animals as well as respect for the neighbors, no animals will be kept outdoors;

Whereas, the property is zoned Agricultural, which allows for the use, subject to a Conditional Use Permit (CUP);

Whereas, the homes along this section of Hilliard Road were subject to deed restrictions constraining future development to residential use only—however, the deed restrictions were released by the five owners in April of 2019 and recorded in the real property records of Bell County on August 19th, 2019;

Whereas, Staff recommends approval of the CUP with a site plan as the request is compatible with surrounding and anticipated uses, public facilities are available to serve the property, and there is demonstrated compliance with the CUP review criteria in Section 3.5.4. of the City's Unified Development Code;

Whereas, the Planning and Zoning Commission of the City of Temple, Texas, at its November 4, 2019 meeting, voted 7-0 to recommend approval of the CUP with a site plan, subject to the following conditions:

- Substantial compliance with the Site Plan, attached as Exhibit A;
- Construction of a 6-foot sidewalk with 4-foot planting strip along Hilliard Road;
- Fenced areas shown on the Site Plan will be screened by a 6-foot solid privacy fence;
- Animals allowed outside will be limited to the supervised exercise of dogs within the fenced areas shown on the Site Plan;
- Animals will be housed only within the first floor of the primary structure as shown on the attached floor plan;
- No livestock on the property;
- The Director of Planning may be authorized to approve minor changes to the site plan, which may include but are not limited to: building footprint configuration, exterior building materials, and landscaping

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Part 2: The City Council approves a Conditional Use Permit with a Site Plan to allow a veterinary hospital at 610 Hilliard Road, Temple, Texas and subject to the following conditions:

- Substantial compliance with the Site Plan, attached as Exhibit A;
- Construction of a 6-foot sidewalk with 4-foot planting strip along Hilliard Road;
- Fenced areas shown on the Site Plan will be screened by a 6-foot solid privacy fence;
- Animals allowed outside will be limited to the supervised exercise of dogs within the fenced areas shown on the Site Plan;
- Animals will be housed only within the first floor of the primary structure as shown on the attached floor plan;
- No livestock on the property; and
- The Director of Planning may be authorized to approve minor changes to the site plan, which may include but are not limited to: building footprint configuration, exterior building materials, and landscaping.

Part 3: The City Council approves the Site Development Plan which is made a part hereof for all purposes.

Part 4: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.

Part 5: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

Part 6: This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 7: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **5th** day of **December**, 2019.

PASSED AND APPROVED on Second Reading on the **19th** day of **December**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephanie Hedrick
Deputy City Secretary

Kathryn Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/05/19

Item #7

Regular Agenda

Page 1 of 5

DEPT./DIVISION SUBMISSION & REVIEW:

Tammy Lyerly, Senior Planner

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – FY-20-3-ZC: Consider an ordinance adopting a site development plan and rezoning from Agricultural and Single Family-Three to Planned Development-General Retail on 0.348 +/- acres and Planned Development-General Retail with a Conditional Use Permit for the sale of alcoholic beverages for on-site consumption, where the sale of alcohol may be up to 50% of the total revenue, on 0.108 +/- acres and 1.456 +/- acres, situated in the Baldwin Robertson Survey, Abstract No. 17, Bell County, Texas, located at Prairie View Road and east of Westfield Boulevard.

PLANNING AND ZONING COMMISSION RECOMMENDATION: At its November 18, 2019, meeting the Planning and Zoning Commission voted 7/0 to recommend approval of the site development plan and requested rezoning Agricultural (AG) and Single Family-Three (SF-3) to Planned Development-General Retail (PD-GR) on 0.348 +/- acres and Planned Development-General Retail (PD-GR) with a Conditional Use Permit (CUP) for the sale of alcoholic beverages for on-site consumption, where the sale of alcohol may be up to 50% of the total revenue, on 0.108 +/- acres and 1.456 +/- acres, per staff recommendation.

STAFF RECOMMENDATION: Staff recommends approval of the following uses, conditions, and exceptions within each proposed Planned Development-General Retail (PD-GR) district:

1. Allowance of the following uses by right within the PD-GR districts:
 - All uses identified in Sec. 5.1 Use Table that are permitted in the General Retail District (GR)
 - Vertical Mixed Use allowing for multifamily elements and general retail elements to be combined in a single multi-story building (**UDC Section 5.1 waived**)
 - Multiple Family Dwelling-3 (**UDC Section 5.1 waived**)
2. Approval of a Conditional Use Permit for alcoholic beverage sales where the sale of all alcoholic beverages for on premise consumption may be up to 50% on designated PD-GR districts (0.108 acres and 1.456 acres) along Prairie View Road, as shown on the Site Development Plan
3. Provision of a continuous buffer, along the common boundary between nonresidential or multiple-family uses and residential district only (**buffering from internal uses is waived**) will be the responsibility of the non-residential developer at permitting - eliminating the required continuous buffering along the common boundary between nonresidential or multiple-family

uses and residential uses (**UDC Section 7.7.4: Landscaping Standards** location waived above)

PROPOSED CITY COUNCIL MEETING SCHEDULE: This rezoning and Conditional Use Permit request is scheduled for 1st Reading on December 5, 2019 and 2nd Reading on December 19, 2019.

ITEM SUMMARY: This rezoning request is to allow the expansion of a recent Planned Development district approved by City Council on June 1, 2017 with Ordinance No. 2017-4844. This rezoning request includes 0.348 acres of land zoned Single Family-Three (SF-3), 0.018 acres of land which was previously Prairie View Road right-of-way that has been deeded back to the applicants and zoned Agricultural (AG), and 1.456 acres of land zoned Planned Development-General Retail (PD-GR) for mixed-use dwelling/retail per Ordinance No. 2017-4844.

The **1.456-acre PD-GR district** is included in this request to allow a Conditional Use Permit (CUP) for the sale of alcoholic beverages for on-site consumption, where the sale of alcohol may be up to 50% of the total revenue. The **0.018-acre tract** is included in this CUP request sale of alcoholic beverages for on-site consumption, where the sale of alcohol may be up to 50% of the total revenue.

Section 109.33: Sales Near School, Church, or Hospital of Title 4 of the Texas Alcoholic Beverage Code. Distance requirements from schools, churches and hospitals are applicable.

The site development plan shows both tracts exceed the 300' distance from the public BISD school to the southwest and Crossroads Community Park along the south side of Prairie View Road, per **Unified Development Code (UDC) Section 5.3.15: Alcoholic Beverage Sales for On-Premise Consumption.**

The previously approved 185-acre Planned Development established by Ordinance No. 2017-4844 was modeled after the nearby Westfield Master Plan. The applicant's design concept involves the integration of a mix of zonings and uses to create a unique planned community where residents have access to recreational amenities and shopping through a connected trail/sidewalk system modeled on the successful Westfield development to the south. The applicant proposes multiple elements into this planned development request to include:

1. Professional and retail shops;
2. Live/work mixed use dwelling/retail units;
3. Mix of residential development integrating single family detached and multi-family uses into a single planned community;
4. Vertical mixed uses including multifamily and restaurants; and
5. Pocket parks/green space dispersed throughout the development with interior sidewalk connectivity.

Planned Development: UDC Section 3.4.1 defines a Planned Development as:

"A flexible overlay zoning district designed to respond to unique development proposals, special design considerations and land use transitions by allowing evaluation of land use relationships to surrounding areas through development plan approval."

A development plan is subject to review and approval as part of the Planned Development rezoning. As opposed to a standard rezoning, conditions of approval can be included into the rezoning ordinance of a Planned Development.

The applicants have provided a site development plan with this rezoning request. The development site plan shows the three areas proposed within this Planned Development-General Retail (PD-GR) request, as well as the two areas requesting a Conditional Use Permit for the sale of alcoholic beverages for on-site consumption, where the sale of alcohol may be up to 50% of the total revenue.

The site development plan also shows a 300-foot radius from the BSD property to ensure adequate distance separation associated with this CUP request.

Per UDC Section 3.4.2C, the City Council may include additional conditions of approval into the rezoning ordinance. In approving a Planned Development, the City Council may require additional standards deemed necessary to create a reasonable transition to, and protection of, adjacent property and public areas, including but not limited to, access and circulations, signs, parking, building design, location and height, light and air, orientation, building coverage, outdoor lighting, landscaping, homeowners or property owners associations, open space, topography and screening.

The applicant's rezoning request conforms with the planned development review criteria by addressing the following:

1. The Planned Development rezoning is being considered with a plat, currently being reviewed by DRC. Proposed streets and utility infrastructure will be constructed in conformance with the Design and Development Standards Manual. The applicant has not requested any exceptions to street or utility provision standards.
2. The applicant proposes a mixed-use higher density development project designed to provide opportunities for residents to access amenities and entertainment opportunities close to where they live as established by the adjacent property's recent rezoning with City Council approval of Ordinance No.2017-4844.
3. This area is characterized by the placement of similar uses to what is proposed. The area provides a mix of uses to include residential (varying densities), retail, office, public institutional (schools) and recreation uses. The applicant proposes similar vertical mixed use and multi-family uses similar to those allowed on nearby properties in the Westfield Master Plan.
4. The applicant proposes an interconnected network of sidewalks to allow safe pedestrian passage between retail, residential and recreational uses to include the nearby Crossroads Community Park.
5. Parking and loading concerns will be addressed with the building permits and related site plans.
6. The proposed Planned Development integrates open space with retail and mixed uses of varying intensities.
7. The subject site is served by multiple water and sewer lines.

Specific to this CUP request, a restaurant or other use that generates up to 50% of its total gross revenue from the sale of all alcoholic beverages for on-premise consumption is a compatible use subject to approval of a Conditional Use Permit.

Section 5.3.15 of the Unified Development Code provides for multiple performance standards related to the provision of a Conditional Use Permit for the on-premise sale of alcoholic beverages. Some of which include, but not limited to:

- *The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six months from the date of the issuance of the Conditional Use Permit, such limitation in time being subject to City review and possible extension,*
- *The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the Citizens of the City,*
- *The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee must consult with the Chief of Police, who acts in an advisory capacity, to determine the number of qualified employees necessary to meet such obligations.*

Additionally, the UDC states:

The City Council may deny or revoke a Conditional Use Permit in accordance with UDC Section 3.5 if it affirmatively determines that the issuance of the permit is:

- Incompatible with the surrounding uses of property; or*
- Detrimental or offensive to the neighborhood or contrary to the health, safety and general welfare of the City and its inhabitants, and*
- Per UDC Section 3.5.5, the Planning & Zoning Commission may recommend, and the City Council may impose additional conditions of approval.*

Adherence to UDC Section 5.3.15 in its entirety is included by reference in the Ordinance as conditions of approval. A Conditional Use Permit runs with the property and a change in ownership or change in the lessee does not affect the Conditional Use Permit.

DEVELOPMENT REVIEW COMMITTEE (DRC): The DRC reviewed this Conditional Use Permit (CUP) request on November 4, 2019. The site development plan satisfied the 300-foot distance requirement from the BISD property to the southwest.

COMPREHENSIVE PLAN COMPLIANCE: The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Future Land Use and Character Plan (FLUP) (CP Map 3.1)

The *Choices '08* City of Temple Comprehensive Plan shows this area as Agricultural/Rural. Although the requested general retail uses are not compliant with the Future Land Use Map, this request is compatible with the adjacent Planned Development-General Retail (PD-GR) zoning. This request is compatible with surrounding similar uses in the Westfield Master Plan and nearby.

Thoroughfare Plan (CP Map 5.2) and Temple Trails Master Plan Map and Sidewalk Ordinance

The subject property fronts Prairie View Rd, a minor arterial. Minor arterials are appropriate for retail and mixed uses. Sidewalks exist on Westfield Boulevard and Prairie View Road.

Availability of Public Facilities (CP Goal 4.1)

Sanitary sewer and water are available to the subject property through potential connections from both the south and north of the subject property.

PUBLIC NOTICE: Six notices of the Planning and Zoning Commission public hearing were sent out to property owners within 200-feet of the subject property as required by State law and City Ordinance. As of Thursday, November 14, 2019, two notices have been returned in favor of the proposed rezoning and no notices have been returned in opposition to the proposed rezoning.

The newspaper printed the notice of the public hearing on November 7 2019, in accordance with state law and local ordinance.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Site and Surrounding Property Photos](#)

[Maps](#)

[Development Regulation Tables](#)




[Development/Site Plan Exhibits](#)




[Notification Response Letters](#)

[Ordinance](#)

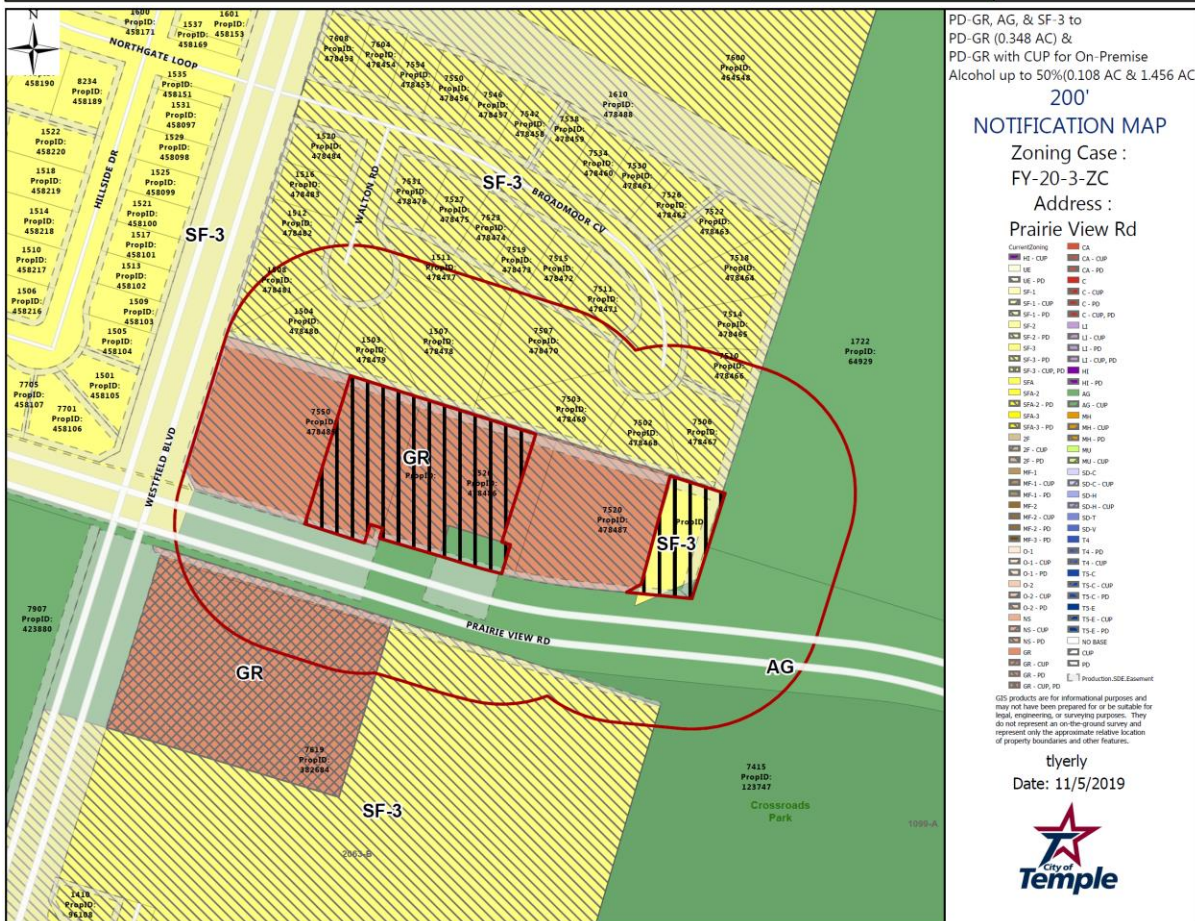
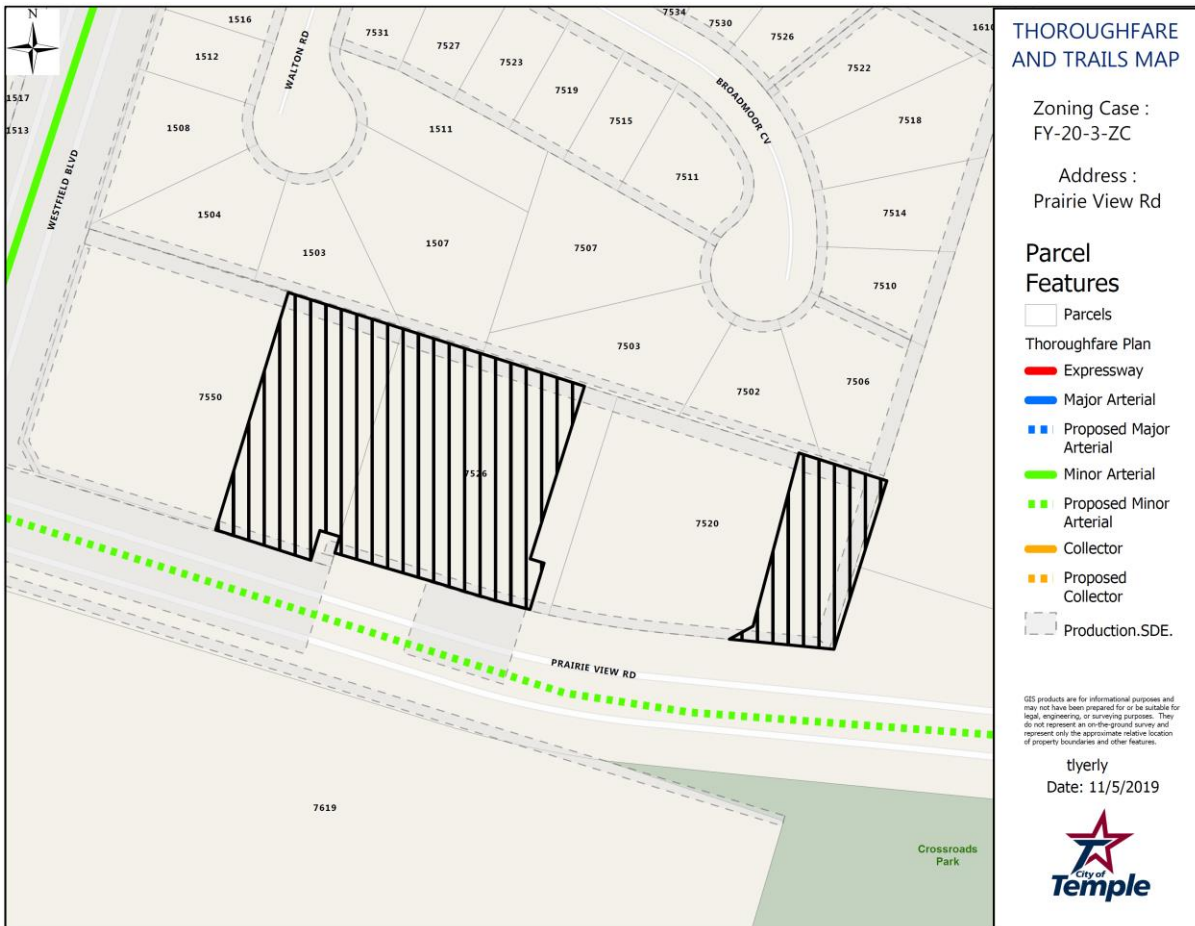
SURROUNDING PROPERTY AND USES:

The following table shows the subject property, existing zoning and current land uses:

Direction	Zoning	Current Land Use	Photo
Subject Property	AG, SF-3, & PD-GR	Undeveloped Land	
			
East	AG	Undeveloped Land	

Direction	Zoning	Current Land Use	Photo
West	PD-GR	Undeveloped Land	
South	GR, SF-3, & AG	Undeveloped Land & BISD School to Southwest & Crossroads Community Park to southeast	
			

Direction	Zoning	Current Land Use	Photo
North	PD-SF-3	Undeveloped Land	 A photograph showing a wide, flat, undeveloped area of land with dry, yellowish-brown grass. In the background, a prominent blue and white water tower stands out against a cloudy sky. Several utility poles and power lines are visible across the horizon. A few bare trees are scattered in the foreground and midground, and a red spherical object, possibly a fire hydrant or marker, is visible on the right side of the field.



DEVELOPMENT REGULATIONS:

	GR (Base Zoning)
Minimum Lot Size	N/A
Minimum Lot Width	N/A
Minimum Lot Depth	N/A
Front Setback	15 Feet
Side Setback	10 Feet
Side Setback (corner)	10 Feet
Rear Setback	10 Feet
Max Building Height	3 Stories

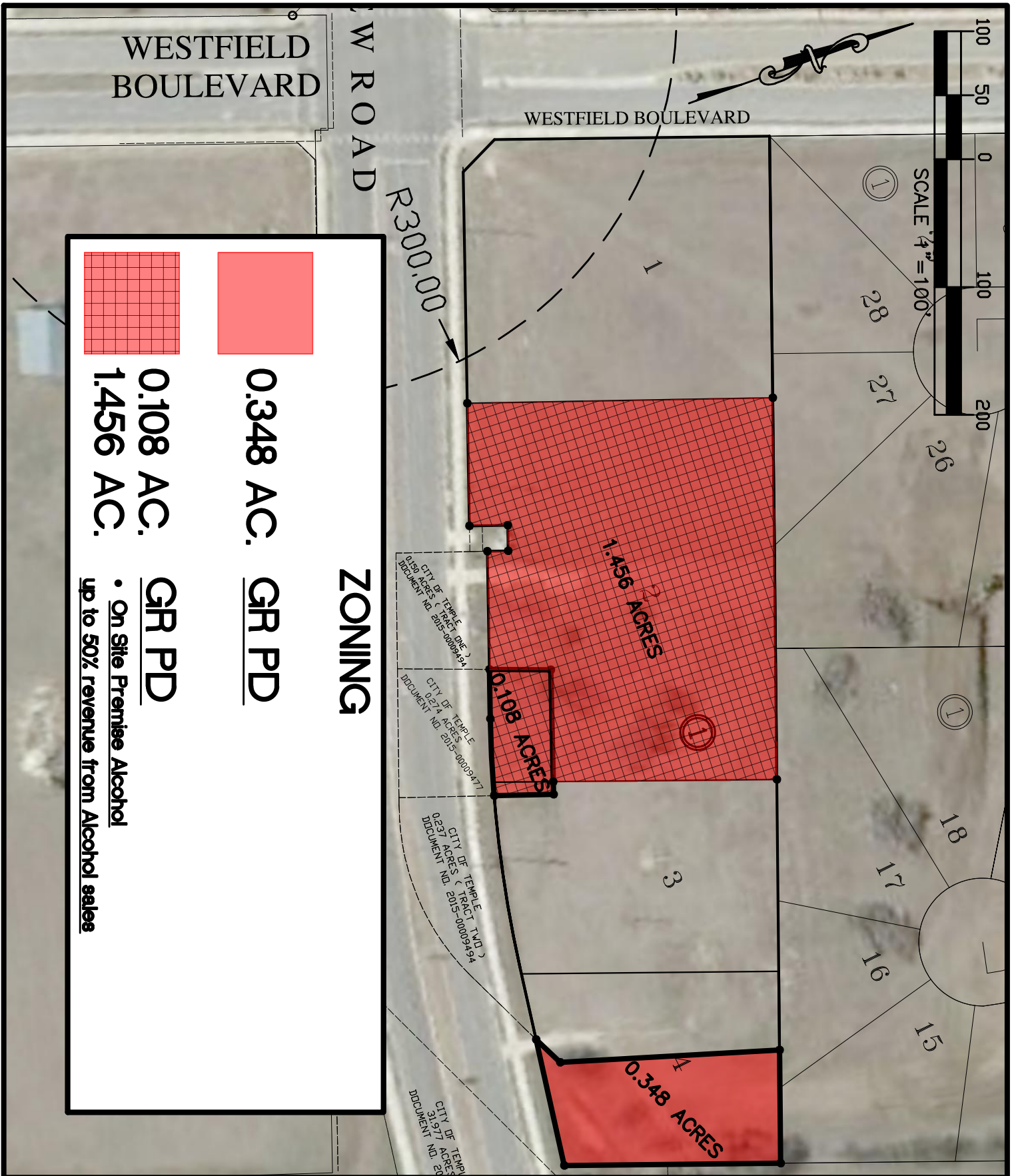
Permitted & Conditional Use Table - General Retail (GR)	
Agricultural Uses	* Farm, Ranch or Orchard
Residential Uses	* Single Family Residence (Detached & Attached) * Duplex * Townhouse * Industrialized Housing * Family or Group Home * Home for the Aged
Retail & Service Uses	* Most Retail & Service Uses * Alcoholic Beverage Sales, off-premise consumption, package Store (CUP)
Commercial Uses	* Plumbing Shop * Upholstery Shop * Kennel without Veterinary Hospital (CUP) * Indoor Flea Market
Industrial Uses	* Temporary Asphalt & Concrete Batching Plat (CUP) * Laboratory, medical, dental, scientific or research * Recycling collection location
Recreational Uses	* Park or Playground * Beer & Wine (On Premise Consumption) < 75%
Vehicle Service Uses	* Auto Leasing, Rental * Auto Sales - New & Used (outside Lot) * Car Wash * Vehicle Servicing (Minor)
Restaurant Uses	* With & Without Drive-In
Overnight Accommodations	* Hotel or Motel
Transportation Uses	* Emergency Vehicle Service * Helistop

Surrounding Property & Uses			
<u>Direction</u>	<u>Future Land Use Map</u>	<u>Zoning</u>	<u>Current Land Use</u>
Site	Agricultural/Rural	AG, SF-3, & PD-GR	Undeveloped Land
North	Agricultural/Rural	PD-SF-3	Undeveloped Land
South	Suburban Residential	GR, SF-3 & AG	Undeveloped Land & Community Park
East	Agricultural/Rural	AG	Undeveloped Land
West	Agricultural/Rural	PD-GR	Undeveloped Land

COMPREHENSIVE PLAN (CP) COMPLIANCE: The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use Map	Partial
CP	Map 5.2 - Thoroughfare Plan	Yes
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Yes
STP	Temple Trails Master Plan Map and Sidewalks Ordinance	Yes

CP = Comprehensive Plan STP = Sidewalk and Trails Plan



**NORTH GATE PHASE II
REPLAT NO. 2**

ZONING SITE PLAN

**PAGE #
01**

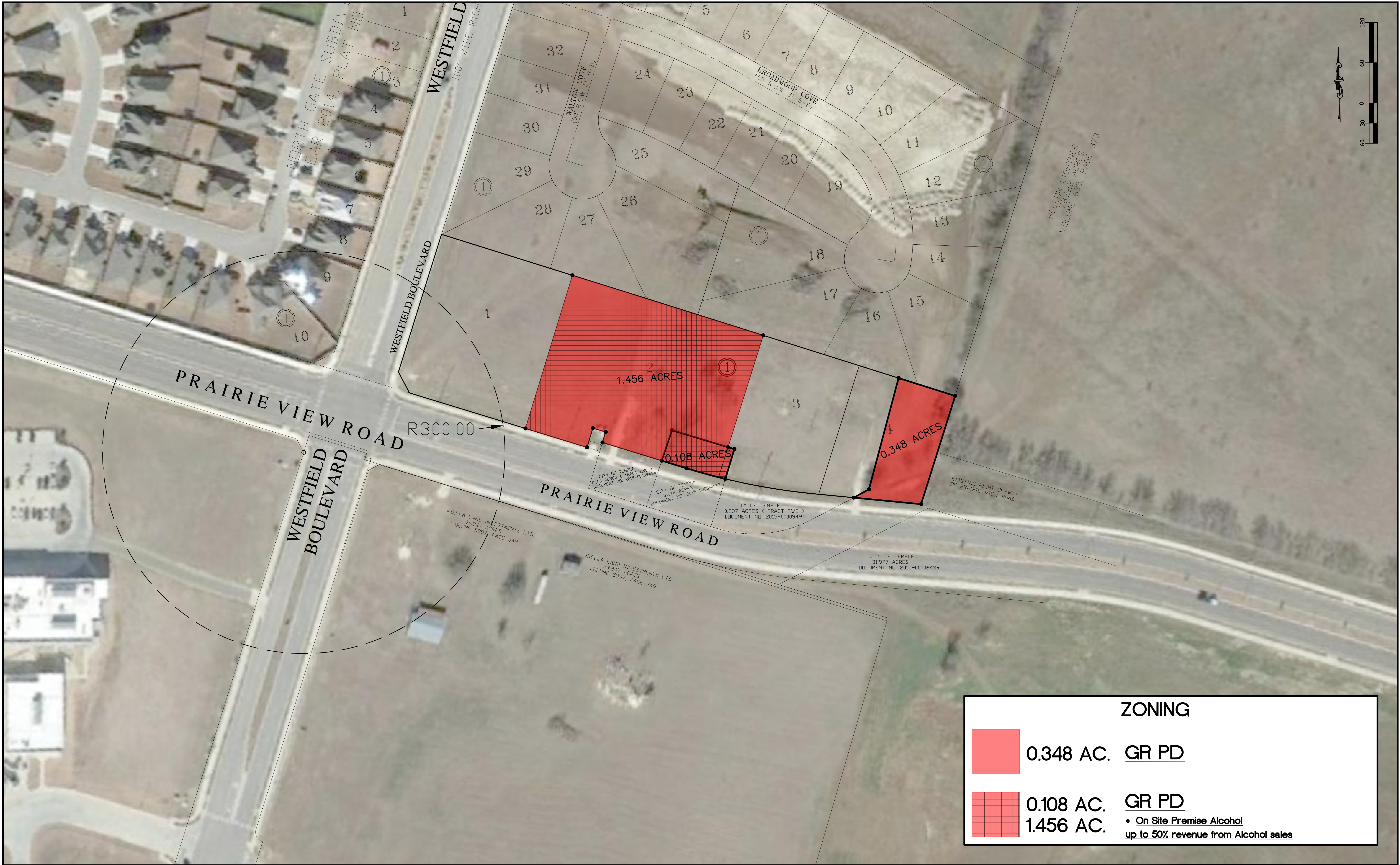


301 N. 3rd Street, Temple, TX 76501
email: mail@turley-inc.com

76501

FIRM NO. F-1658

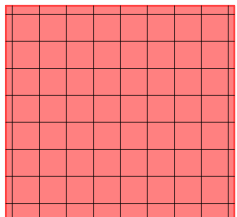
office 254.773.2400
fax 254.773.3998



ZONING



0.348 AC. GR PD



0.108 AC. GR PD
1.456 AC. • On Site Premise Alcohol
up to 50% revenue from Alcohol sales



**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

478487
SHORT-TERM LENDING GP INC
15 N MAIN ST
TEMPLE, TX 76501-7629

RECEIVED
NOV 13 2019
CITY OF TEMPLE
PLANNING & DEVELOPMENT

Zoning Application Number: FY-20-3-ZC

Case Manager: Tammy Lyerly

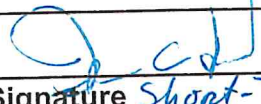
Location: Prairie View Road

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ agree

() disagree with this request

Comments:


Signature Short-Term Lending GP, Inc

Thomas C Baird
Print Name

11/12/19

Thomas C Baird, Pres (Optional)
Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, tylerly@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than **November 18, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 6

Date Mailed: November 6, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

478486
SHORT-TERM LENDING GP INC
15 N MAIN ST
TEMPLE, TX 76501-7629

REC'D
NOV 13 2019

CITY OF TEMPLE
PLANNING DEPARTMENT

Zoning Application Number: FY-20-3-ZC

Case Manager: Tammy Lyerly

Location: Prairie View Road

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ agree

() disagree with this request

Comments:

Thomas C Baird 11/12/19
Signature Short-Term Lending GP, Inc Print Name
Thomas C Baird, Pres

Provide email and/or phone number if you want Staff to contact you (Optional)

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, tylerly@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than **November 18, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 6

Date Mailed: November 6, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.

ORDINANCE NO. 2019-5011
(FY-20-3-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ADOPTING A SITE DEVELOPMENT PLAN; AUTHORIZING A REZONING FROM AGRICULTURAL AND SINGLE FAMILY THREE ZONING DISTRICTS TO PLANNED DEVELOPMENT GENERAL RETAIL ZONING DISTRICT ON APPROXIMATELY 0.348 ACRES AND PLANNED DEVELOPMENT GENERAL RETAIL ZONING DISTRICT WITH A CONDITIONAL USE PERMIT FOR THE SALE OF ALCOHOLIC BEVERAGES FOR ON-SITE CONSUMPTION, WHERE THE SALE OF ALCOHOL MAY BE UP TO 50% OF THE TOTAL REVENUE, ON APPROXIMATELY 0.108 ACRES AND APPROXIMATELY 1.456 ACRES, SITUATED IN THE BALDWIN ROBERTSON SURVEY, ABSTRACT NO. 17, BELL COUNTY, TEXAS, LOCATED AT PRAIRIE VIEW ROAD AND EAST OF WESTFIELD BOULEVARD; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, this rezoning request will allow for the expansion of a recent Planned Development approved by City Council on June 1, 2017 with Ordinance No. 2017-4844 - applicant's design concept involves integration of a mix of zonings and uses to create a unique planned community where residents have access to recreational amenities and shopping through a connected sidewalk/trail system;

Whereas, applicant's rezoning request includes approximately 0.348 acres of land zoned Single Family Three (SF3) zoning district, approximately 0.018 acres of land which was previously Prairie View Road right-of-way that has been deeded back to the applicants and is zoned Agricultural (AG) zoning district, and approximately 1.456 acres of land zoned Planned Development General Retail (PD-GR) zoning district for mixed-use dwelling/retail per Ordinance No. 2017-4844;

Whereas, the applicant proposes multiple elements into this planned development request to include:

- Professional and retail shops;
- Live/work mixed use dwelling/retail units;
- Mix of residential development integrating single family detached and multi-family uses into a single planned community;
- Vertical mixed uses including multifamily and restaurants; and
- Pocket parks/green space dispersed throughout the development with interior sidewalk connectivity;

Whereas, the approximately 1.456-acres of the PD-GR zoning district is included in this request to allow a Conditional Use Permit (CUP) for the sale of alcoholic beverages for on-site consumption, where the sale of alcohol may be up to 50% of the total revenue - the approximately 0.018-acre tract which was previously Prairie View right-of-way is also included in the request for a CUP for the sale of alcoholic beverages for on-site consumption, where the sale of alcohol may be up to 50% of the total revenue;

Whereas, distance requirements for alcohol sales from schools, churches and hospitals are applicable as stated in the Texas Alcoholic Beverage Code are applicable-- the site development plan shows both tracts requested for issuance of a CUP for alcohol sales exceed the 300-foot distance from the public Belton Independent School District school to the southwest and Crossroads Community Park along the south side of Prairie View Road;

Whereas, the applicant has provided a site development with the rezoning request, which shows the three areas proposed within this Planned Development General Retail (PD-GR) request, as well as the two areas where a CUP for the sale of alcoholic beverages for on-site consumption, where the sale of alcohol may be up to 50% of the total revenue are requested—the sited development plan also shows a 300-foot radius from the BISD property, to ensure adequate distance separation associated with the CUP request;

Whereas, Staff recommends approval of applicant's rezoning and CUP requests subject to the following uses, conditions, and exceptions within each proposed Planned Development General Retail district:

- Allowance of the following uses by right within the Planned Development General Retail zoning district:
 - All uses identified in Sec. 5.1 Use Table that are permitted in the General Retail zoning district;
 - Vertical Mixed Use allowing for multifamily elements and general retail elements to be combined in a single multi-story building (UDC Section 5.1 waived); and
 - Multiple Family Dwelling -3 zoning district (UDC Section 5.1 waived);
- Approval of a Conditional Use Permit for alcoholic beverage sales where the sale of all alcoholic beverages for on premise consumption may be up to 50% on designated Planned Development General Retail zoning districts (0.108 acres and 1.456 acres) along Prairie View Road, as shown on the Site Development Plan; and
- Provision of a continuous buffer, along the common boundary between nonresidential or multiple-family uses and residential district only (buffering from internal uses is waived) will be the responsibility of the non-residential developer at permitting - eliminating the required continuous buffering along the common boundary between nonresidential or multiple-family uses and residential uses (UDC Section 7.7.4: Landscaping Standards location waived above)

Whereas, the Planning and Zoning Commission of the City of Temple, Texas, at its November 18th, 2019 meeting, voted 7-0 to recommend approval of the rezoning from Agricultural zoning district and Single Family Three to Planned Development General Retail zoning district on approximately 0.348 acres and Planned Development General Retail zoning district with a Conditional Use Permit for the sale of alcoholic beverages for on-site consumption, where the sale of alcohol may be up to 50% of the total revenue, on approximately 0.108 acres and approximately 1.456 acres, located at Prairie View Road and east of Westfield Boulevard, as outlined in the map attached hereto as Exhibit 'A,' and made a part hereof for all purposes, and subject to the uses, conditions, and exceptions presented by staff and outlined above; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Part 2: The City Council approves the rezoning from Agricultural zoning district and Single Family Three zoning district to Planned Development General Retail zoning district on approximately 0.348 acres and Planned Development General Retail zoning district with a Conditional Use Permit for the sale of alcoholic beverages for on-site consumption, where the sale of alcohol may be up to 50% of the total revenue, on approximately 0.108 acres and approximately 1.456 acres, located at Prairie View Road and east of Westfield Boulevard, as outlined in the map attached hereto as Exhibit 'A,' and made a part hereof for all purposes, and subject to the following conditions:

- Allowance of the following uses by right within the Planned Development General Retail zoning districts:
 - All uses identified in Sec. 5.1 Use Table that are permitted in the General Retail (GR) zoning district;
 - Vertical Mixed Use allowing for multifamily elements and general retail elements to be combined in a single multi-story building (UDC Section 5.1 waived); and
 - Multiple Family Dwelling -3 (UDC Section 5.1 waived).
- Approval of a Conditional Use Permit for alcoholic beverage sales where the sale of all alcoholic beverages for on premise consumption may be up to 50% on designated Planned Development General Retail zoning districts (0.108 acres and 1.456 acres) along Prairie View Road, as shown on the Site Development Plan.
- Provision of a continuous buffer, along the common boundary between nonresidential or multiple-family uses and residential district only (buffering from internal uses is waived) will be the responsibility of the non-residential developer at permitting - eliminating the required continuous buffering along the common boundary between nonresidential or multiple-family uses and residential uses (UDC Section 7.7.4: Landscaping Standards location waived above).

Part 3: The City Council approves the Site Development Plan which is made a part hereof for all purposes.

Part 4: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.

Part 5: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

Part 6: This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 7: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **5th** day of **December**, 2019.

PASSED AND APPROVED on Second Reading on the **19th** day of **December**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephanie Hedrick
Deputy City Secretary

Kathryn Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/05/19
Item #8
Regular Agenda
Page 1 of 3

DEPT. / DIVISION SUBMISSION REVIEW:

Jason Deckman, Planner

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – FY-20-5-ZC: Consider adopting an ordinance authorizing a rezoning from Central Area to Planned Development-Central Area zoning district with a site development plan, to allow a brewery for alcohol sales at 8 South 1st Street.

PLANNING & ZONING COMMISSION RECOMMENDATION: At its meeting on November 18, 2019, the Planning & Zoning Commission voted 7 to 0 to recommend approval per staff's recommendation.

STAFF RECOMMENDATION: Based on the following, staff recommends approval to rezone the property located at 8 South 1st Street from Central Area to Planned Development-Central Area (PD-CA):

1. The proposed PD-CA zoning designation will allow the proposed microbrewery use to be in compliance with Section 5 of the Unified Development Code (UDC);
2. The request complies with the Thoroughfare Plan; and
3. Public facilities are available to serve the subject property.

Staff Recommends approval of the proposed Planned Development Rezoning, subject to the following conditions:

1. Consistent with the site development plan attached as Exhibit A;
2. To specifically allow brewing to take place on the property and;
3. To define the use in the Central Area Zoning District as follows:
 - a. Microbrewery or Brewpub: An establishment which holds a permit from the Texas Alcoholic Beverage Commission (TABC) for brewing, fermentation, production, or processing of alcoholic beverages with a floor area of 10,000 square feet or less and an annual production of 2,000 barrels of beer (bbl) or less that takes place wholly inside a building. Alcoholic beverages may include beer and/or cider. A tasting or retail sales area with or without food service and/or outdoor seating is allowed. A facility that only provides tasting or retail sales of alcoholic beverages is included in this definition.

ITEM SUMMARY: The applicant, JD McBride, requests a rezoning from CA to PD-CA to allow development of Fire Base Brewing Company, a microbrewery in Downtown Temple. Mr. McBride proposes to brew beer for consumption in the taproom and an optional outdoor seating area in front of the business. Central Area zoning does permit the sale of alcohol for on-premise consumption, subject to approval of a Conditional Use Permit. Sales for off-premise consumption are permitted by right.

The Planned Development will specifically allow brewing to take place on the property. The defined use in the tables shown in UDC 5.1 allows for establishments that sell alcohol, but does not clearly define a small-scale brewing operation, such as a microbrewery. The applicant plans to produce approximately 1,000 bbl annually. Each batch will require roughly 200 gallons of water to produce 150 gallons of beer (~5 bbl). The applicant has no plans to distribute any products and will function strictly as a microbrewery with beer available for on-site purchase in downtown Temple. For purposes of comparison, BJ's Brewery on East Central Ave produces approximately 15,000 bbl per year and is located in Light Industrial (LI) zoning, which is appropriate for that scale of commercial production and distribution. The proposed PD-CA zoning is compatible with the surrounding area and is expected to attract more people to Downtown Temple.

COMPREHENSIVE PLAN (CP) COMPLIANCE: The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan.

Future Land Use Map (CP Map 3.1)

The subject property is shown as Urban Center on the Future Land Use Map. This designation is specific to the downtown area and is designed for the most intensive site development with an urban character. This request would involve internal renovation of the existing storefront building. The request is **in compliance** with the Future Land Use Map.

Thoroughfare Plan (CP Map 5.2)

The subject property takes access from South 1st Street, which is a local street. Public parking is available along South 1st Street as well as in several nearby public lots. The request is **in compliance** with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

Utilities are located in the alley behind the subject property. Water is available through an 8-inch water line and sewer is available from an 8-inch sewer line.

Temple Trails Master Plan Map and Sidewalks Ordinance

Sidewalks are constructed along South 1st Street. An upcoming Reinvestment Zone project to reconstruct South 1st Street will increase the sidewalk width to ~15 feet, with street trees and planters.

DEVELOPMENT REGULATIONS: The attached site plan shows the internal layout of the brewery. A taproom and seating area covers most of the floor area, with the brewing equipment located at the rear of the building where utility connections are available. The Development Review Committee reviewed the case on November 6, 2019 and found no significant issues. Public Works has determined that discharge resulting from the brewery operations at this location will be minimal and will not have significant impact on the collection system or the wastewater treatment plant.

PUBLIC NOTICE: Sixteen properties within 200-feet of the subject property, were sent notice of the public hearing as required by State law and City Ordinance. As of Thursday November 14, 2019, at 12:00 PM, four notices in agreement have been received. Staff will provide an update regarding late responses, if necessary.

The newspaper printed notice of the public hearing on November 7, 2019 in accordance with state law and local ordinance.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Site Plan \(Exhibit A\)](#)

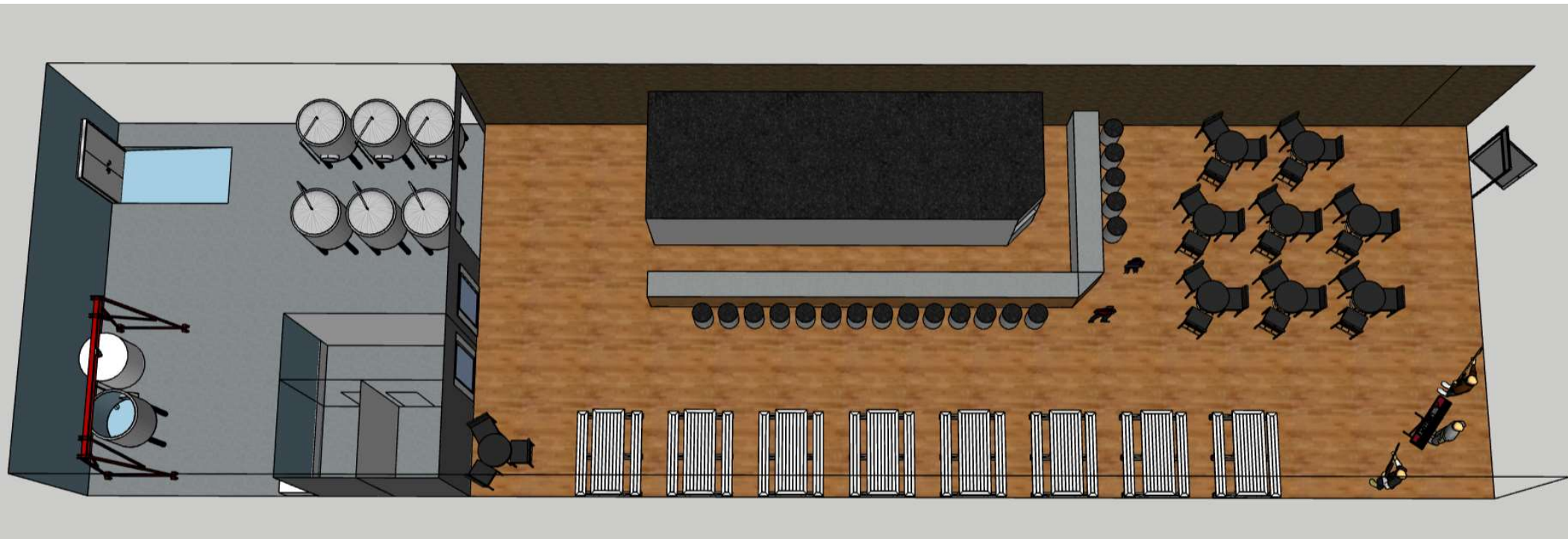
[Site and Surrounding Property Photos](#)

[Maps](#)

[Returned Property Notices](#)

[Ordinance](#)

EXHIBIT A







Facing south along S. 1st Street



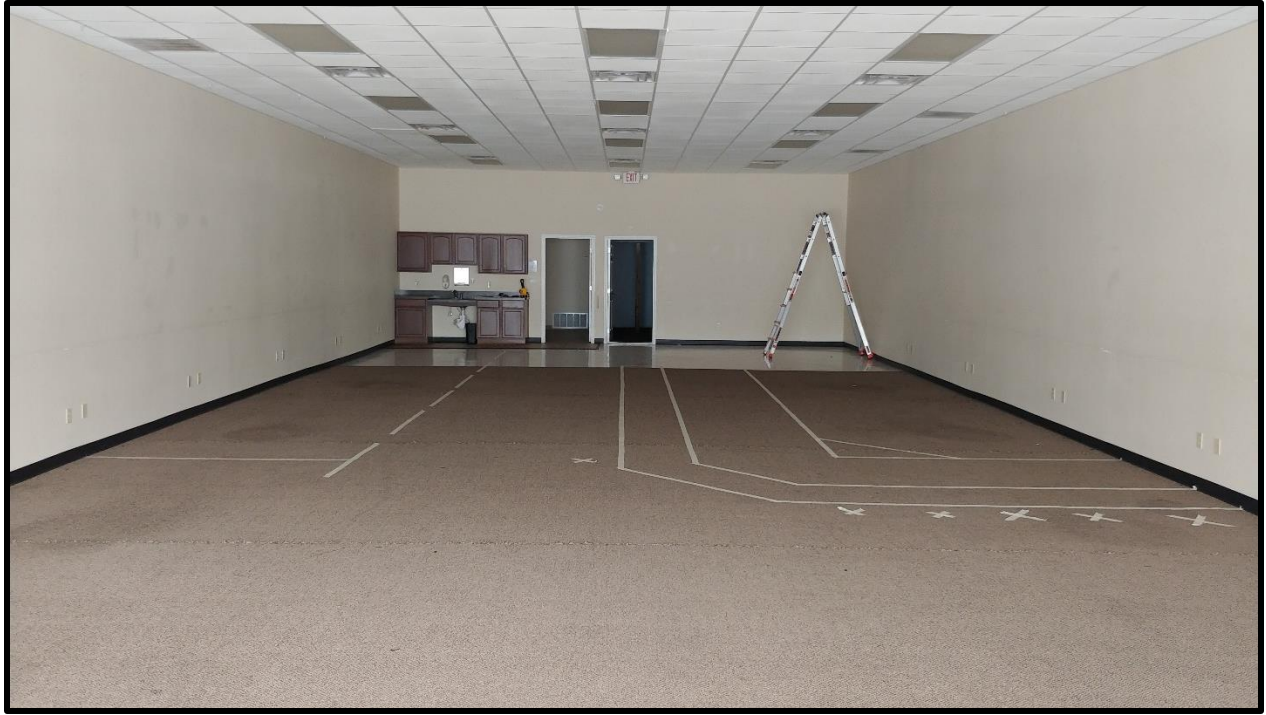
Facing north along S. 1st Street



Front of property along S. 1st Street



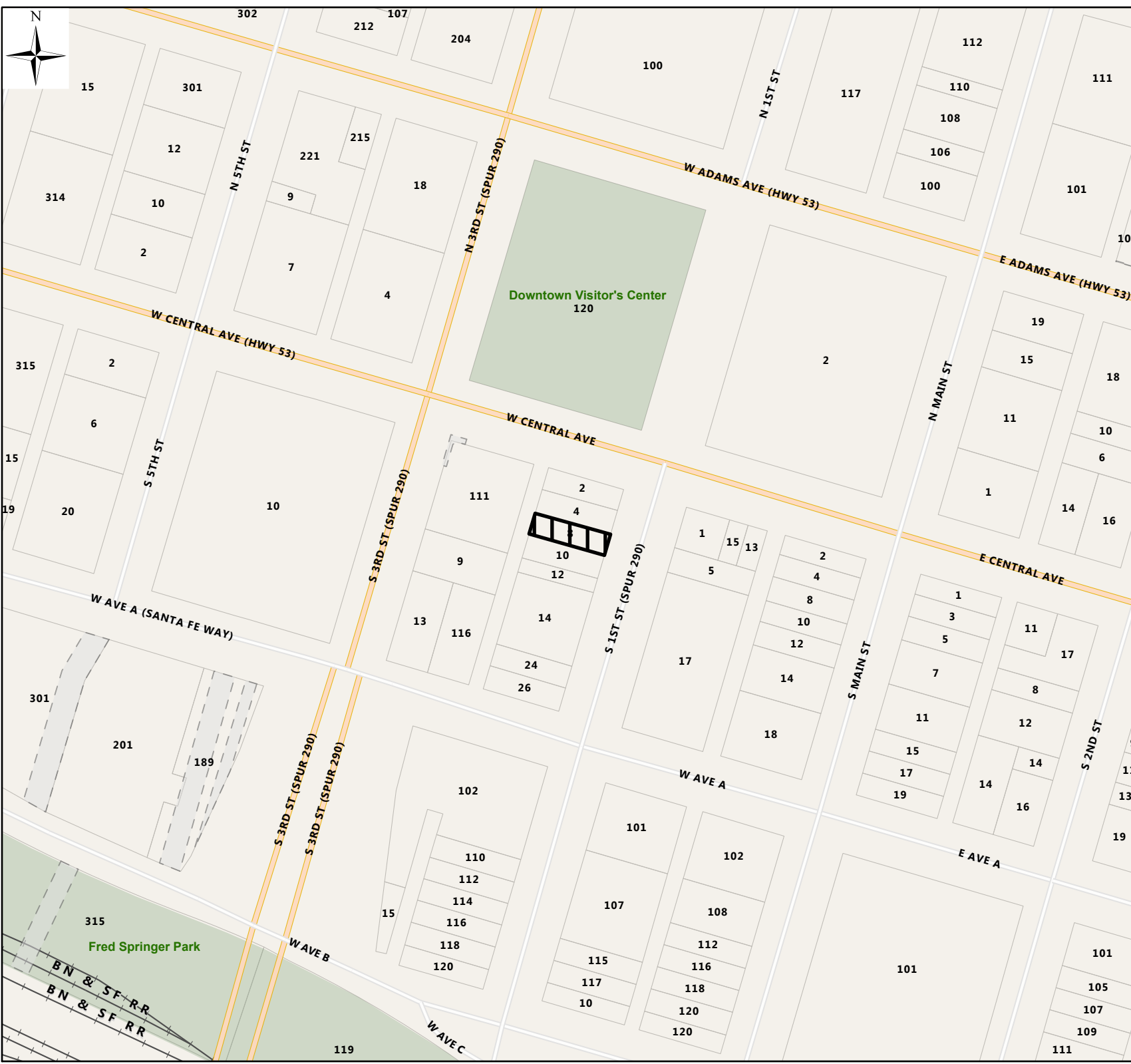
Alley at rear of building, facing south



Interior, facing rear



Interior, facing entrance





CA TO PD-CA

AERIAL MAP

Zoning Case :
FY-20-5-ZC

Address :
8 S. 1ST STREET

Transportation

Streets

MAJOR ARTERIAL

LOCAL STREET

Temple Municipal Boundary

Parcel Features

Parcels

Production.SDE.Easement

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

jdeckman

Date: 10/31/2019





CA TO PD-CA

UTILITY MAP

Zoning Case :
FY-20-5-ZC

Address :
8 S. 1ST STREET

Sewer

- Manhole
- Gravity Main

Water Distribution

- ✚ Hydrant
- Main

Parcel Features

- Parcels
- Easement

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jdeckman
Date: 10/31/2019





Downtown
Visitor's
Center 120

W. CENTRAL AVE

S 1ST ST (SPUR 290)

CA TO PD-CA THOROUGHFARE AND TRAILS MAP

Zoning Case :
FY-20-5-ZC

Address :
8 S. 1ST STREET

Parcel Features

Parcels

Thoroughfare Plan

Expressway

Major Arterial

Proposed Major
Arterial

Minor Arterial

Proposed Minor
Arterial

Collector

Proposed
Collector

EXISTING,
COMMUNITY
WIDE
CONNECTOR

EXISTING,
LOCAL
CONNECTOR

PROPOSED,
CITY WIDE
SPINE

PROPOSED,
COMMUNITY
WIDE
CONNECTOR

PROPOSED,
LOCAL
CONNECTOR

Easement

Trails Master Plan

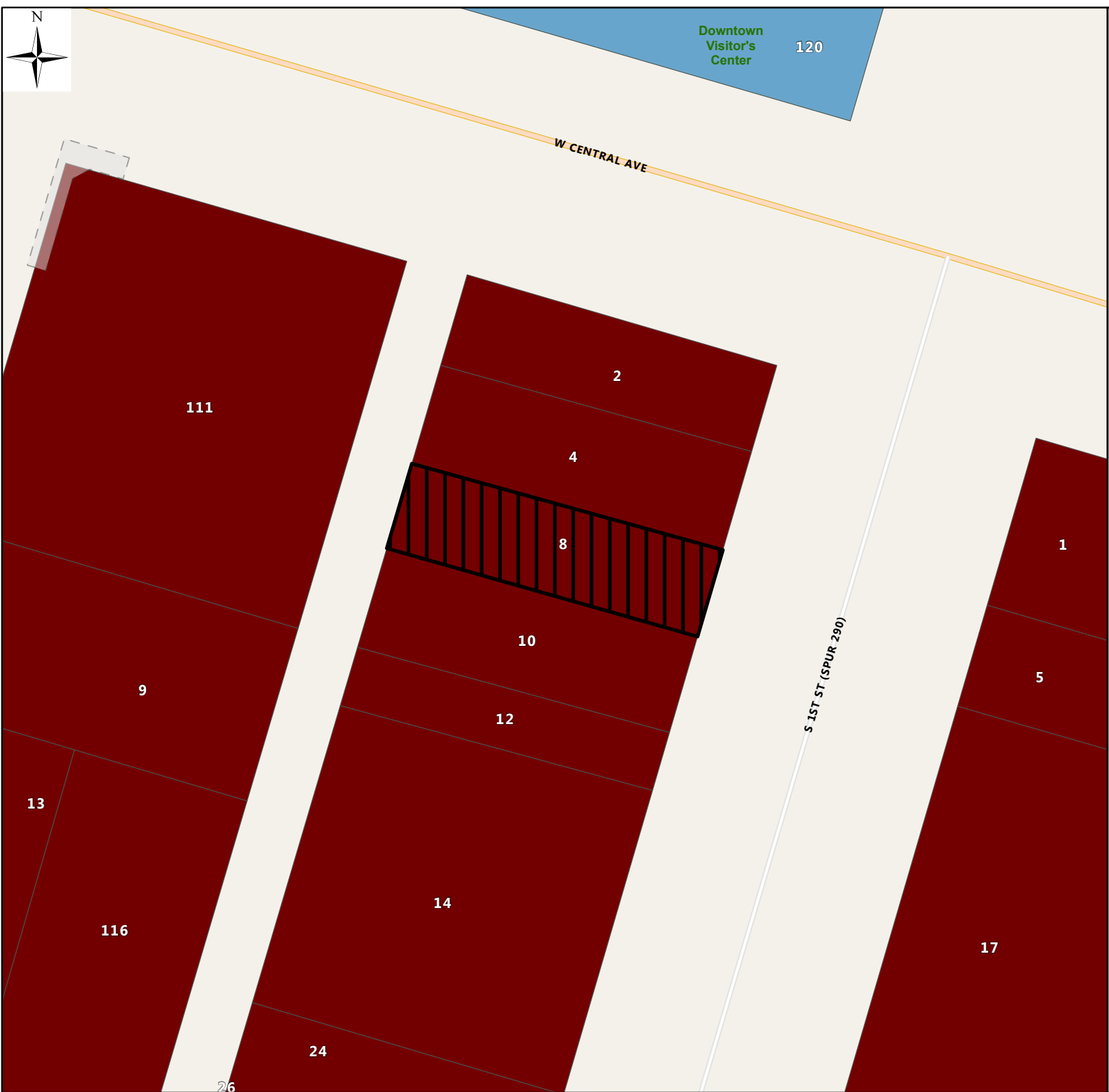
EXISTING, CITY
WIDE SPINE

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jdeckman

Date: 10/31/2019





CA TO PD-CA FUTURE LAND USE MAP

Zoning Case :
FY-20-5-ZC

Address :
8 S. 1ST STREET

Transportation

- EXPRESSWAY
- MAJOR ARTERIAL
- COLLECTOR
- LOCAL STREET
- MINOR ARTERIAL
- PRIVATE
- RAMP

Parcel Features

- Parcels
- Future LUP
 - Agricultural/Rural
 - Auto-Urban Commercial
 - Auto-Urban Mixed Use
 - Auto-Urban Multi-Family
 - Auto-Urban Residential
 - Business Park
 - Estate Residential
 - Industrial
 - Neighborhood Conservation
 - Parks & Open Space
 - Public Institutional
 - Suburban Commercial
 - Suburban Residential
 - Temple Medical Education District
 - Urban Center
- Easement

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jdeckman

Date: 10/31/2019





**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

25149
MAYBORN, FRANK ENTERPRISES INC
PO BOX 6114
TEMPLE, TX 76503-6114

NOTICE OF PUBLIC HEARING DATES HAVE CHANGED (SEE ATTACHED)

Zoning Application Number: FY-20-5-ZC

Case Manager: Jason Deckman

Location: 8 South 1st Street, Temple, Texas

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ agree

() disagree with this request

Comments:


Signature

Anyse Sue Mayborn
Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, jdeckman@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **November 18, 2019**.

**City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501**

Number of Notices Mailed: 16

Date Mailed: November 6, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

25150
MAYBORN, FRANK ENTERPRISES INC
PO BOX 6114
TEMPLE, TX 76503-6114

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Zoning Application Number: FY-20-5-ZC

Case Manager: Jason Deckman

Location: 8 South 1st Street, Temple, Texas

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I ☒ agree

() disagree with this request

Comments:


Signature

Anyse Sue Mayborn
Print Name

(Optional)

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**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

25148
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PO BOX 6114
TEMPLE, TX 76503-6114

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I ☒ agree

() disagree with this request

Comments:


Signature

Anyse Sue Mayborn
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(Optional)

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Planning Department
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Temple, Texas 76501**

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**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

69737
MAYBORN, FRANK ENTERPRISES INC
PO BOX 6114
TEMPLE, TX 76503-6114

NOTICE OF PUBLIC HEARING DATES HAVE CHANGED (SEE ATTACHED)

Zoning Application Number: FY-20-5-ZC

Case Manager: Jason Deckman

Location: 8 South 1st Street, Temple, Texas

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I ☒ agree

☐ disagree with this request

Comments:


Signature

Anyse Sue Mayborn
Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

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Temple, Texas 76501**

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REZONING REQUEST
CITY OF TEMPLE**

25149
MAYBORN, FRANK ENTERPRISES INC
PO BOX 6114
TEMPLE, TX 76503-6114

NOTICE OF PUBLIC HEARING DATES HAVE CHANGED (SEE ATTACHED)

Zoning Application Number: FY-20-4-ZC

Case Manager: Jason Deckman

Location: 8 South 1st Street, Temple, Texas

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ agree

() disagree with this request

Comments:


Signature

Anyse Sue Mayborn
Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

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Temple, Texas 76501

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REZONING REQUEST
CITY OF TEMPLE**

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MAYBORN, FRANK ENTERPRISES INC
PO BOX 6114
TEMPLE, TX 76503-6114

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Zoning Application Number: FY-20-4-ZC

Case Manager: Jason Deckman


Location: 8 South 1st Street, Temple, Texas

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I ☒ agree

() disagree with this request

Comments:


Signature

Anyse Sue Mayborn
Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

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CITY OF TEMPLE**

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PO BOX 6114
TEMPLE, TX 76503-6114

NOTICE OF PUBLIC HEARING DATES HAVE CHANGED (SEE ATTACHED)

Zoning Application Number: FY-20-4-ZC

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I ☒ **Agree**

☐ **disagree with this request**

Comments:


Signature

Anyse Sue Mayborn
Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

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Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501**

Number of Notices Mailed: 16

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**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

69737
MAYBORN, FRANK ENTERPRISES INC
PO BOX 6114
TEMPLE, TX 76503-6114

NOTICE OF PUBLIC HEARING DATES HAVE CHANGED (SEE ATTACHED)

Zoning Application Number: FY-20-4-ZC

Case Manager: Jason Deckman

Location: 8 South 1st Street, Temple, Texas

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I ☒ agree

() disagree with this request

Comments:


Signature

Anyse Sue Mayborn
Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

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City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 16

Date Mailed: November 6, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

60172
BCMERC HOLDINGS L L C
15 W CENTRAL AVE
TEMPLE, TX 76501-7627

RECEIVED
PLANNING DEPARTMENT
CITY OF TEMPLE
NOV 14 2019

Zoning Application Number: FY-20-4-ZC

Case Manager: Jason Deckman

Location: 8 South 1st Street, Temple, Texas

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ agree

() disagree with this request

Comments:

Signature

Anthony D. Beach

Print Name

ANTHONY D. BEACH

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, jdeckman@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **November 18, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 16

Date Mailed: November 6, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.

1. Commission means the City of Temple.
2. Executive Director and Chief Clerk means the Director of Public Works.
3. Permit, when referring to City's administration of Registration requirements, means Conditional Use Permit.

5.3.14 Recycling Collection Location or Operation

A recycling operation inside a building, recycling operation outside a building and recycling collection location may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A. The buying and receiving area must be set back a minimum of 50 feet from the public street right-of-way.
- B. A minimum separation of 75 feet is required between any processing operation and the property line of any adjacent property zoned for residential purposes.
- C. The internal circulation area within a tract used for a recycling collection location must consist of a non-permeable surface of either asphalt or concrete.

5.3.15 Alcoholic Beverage Sales for On-Premise Consumption

An establishment with alcoholic beverage sales for on-premise consumption may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A. The following standards apply to all establishments with on-premise consumption of alcoholic beverages.
 1. The permittee must design and operate the establishment in such a manner that the use of the premises does not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
 2. The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six months from the date of the issuance of the Conditional Use Permit, such limitation in time being subject to City review and possible extension. Nothing in this Section herein permits the sale of

Article 5: Use Standards

Sec. 5.3. Specific Use Standards

alcoholic beverages prior to the issuance of an applicable permit or license issued by the Texas Alcoholic Beverage Commission.

3. The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its Conditional Use Permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours.
4. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
5. The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee must consult with the Chief of Police, who acts in an advisory capacity, to determine the number of qualified employees necessary to meet such obligations.
6. The establishment must provide adequate parking spaces in accordance with the standards in Sec. 7.5.
7. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
8. The City Council may deny or revoke a Conditional Use Permit in accordance with Sec. 3.5 if it affirmatively determines that the issuance of the permit is:
 - a. Incompatible with the surrounding uses of property; or
 - b. Detrimental or offensive to the neighborhood or contrary to the health, safety and general welfare of the City and its inhabitants.

9. A Conditional Use Permit runs with the property and a change in the owner or lessee of a permitted establishment does not affect the Conditional Use Permit.
 10. All Conditional Use Permits must be further conditioned that the permit may be canceled, suspended or revoked in accordance with the revocation clause set forth in paragraph 8 above.
 11. The use must comply with City of Temple Code of Ordinances, Chapter 4, "Alcoholic Beverages."
- B.** In addition to the standards in subsection A above, the following standards apply to all establishments where the gross revenue from the sale of alcoholic beverages for on-premise consumption is 75% or more of the total gross revenue of the establishment.
1. The establishment must not be within 300 feet of a public park or any residentially zoned or developed lot.
 2. The distance between the establishment where alcoholic beverages are sold and a protected use listed in (B)(1) must be measured in a straight, direct line from the property line of the establishment to the nearest property line of a property where a protected use is located.
 3. An establishment in a multi-storied building on other than the ground floor must be treated as though it were on the ground floor for purpose of the measurement between property lines.

[Ord. 2017-4830 Chapter 4 & Ord. 2017-4829]

5.3.16 Outdoor Shooting Range

An outdoor shooting range may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A.** Only handguns (pistols and revolvers) are permitted to be used at the outdoor shooting range. No shotguns, rifles or automatic weapons are permitted at the range.
- B.** No armor piercing or incendiary ammunition is allowed.
- C.** Ammunition larger than 0.460 caliber is not allowed.

Chapter 4

ALCOHOLIC BEVERAGES

State law reference -- Alcoholic Beverage Code § 1.01 et seq.

ARTICLE I. IN GENERAL

Sec. 4-1. Definitions.

“City” means the City of Temple, Texas, the City Council of Temple, Texas, or its representatives, employees, agents, or designees.

“City Council” means the City’s elected governing body.

“City Manager” means the City’s city manager or their designee.

“License or permit” means a license or permit granted by the Texas Alcoholic Beverage Commission.

“Licensee or permittee” means a person holding a license or permit granted by the Texas Alcoholic Beverage Commission.

“Private school” means a private school, including a parochial school, that:

- (a) offers a course of instruction for students in one or more grades from kindergarten through grade 12; and
- (b) has more than 100 students enrolled and attending courses at a single location.

ARTICLE II. EXTENDED HOURS

Sec. 4-2. Extended hours.

- (a) Pursuant to Sections 105.03(d) and 105.05(d) of the V.C.T.A., Alcoholic Beverage Code, as amended, the City adopts extended hours sales of alcoholic beverages in any part of the City as follows:

- (1) A holder of a mixed beverage late hours permit may sell and offer for sale mixed beverages between midnight and 2 a.m. on any day.
- (2) A holder of a retail dealer's on-premise late hours license may sell, offer for sale, and deliver beer between midnight and 2 a.m. on any day.

State law reference -- V.T.C.A., Alcoholic Beverage Code § § 105.03, 105.05, and 105.06.

ARTICLE III. ALCOHOLIC BEVERAGE SALES NEAR SCHOOL, CHURCH, OR HOSPITAL

Sec. 4-3. Sales near school, church, or hospital.

- (a) The sale of alcoholic beverages is prohibited at a place of business that is located within:
 - (1) 300 feet of a church, public or private school, or public hospital;
 - (2) 1,000 feet of a private school if City Council receives a request from the governing body of the private school.
- (b) Subsection (a)(1) does not apply to the holder of:
 - (1) a license or permit who also holds a food and beverage certificate issued by the Texas Alcoholic Beverage Commission covering a premise that is located within 300 feet of a private school; or
 - (2) a license or permit covering a premise where minors are prohibited from entering under V.T.C.A., Alcoholic Beverage Code § 109.53, as amended, (i.e. a package store) and that is located within 300 feet of a private school.
- (c) Subsection (a)(2) does not apply to the holder of:
 - (1) a retail on-premises consumption permit or license if less than 50% of the gross receipts for the premises is from the sale or service of alcoholic beverages;
 - (2) a retail off-premises consumption permit or license if less than 50% of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages;

- (3) a wholesaler's, distributor's, brewer's, distiller's and rectifier's, winery, wine bottler's or manufacturer's permit or license, or any other license or permit held by a wholesaler or manufacturer as those words are ordinarily used and understood in V.T.C.A., Alcoholic Beverage Code Chapter 102, as amended;
- (4) a license or permit issued under V.T.C.A., Alcoholic Beverage Code Chapters 27 (Temporary and Special Wine and Beer Retailer's Permit), 31 (Caterer's Permit), or 72 (Temporary Licenses), all as amended, who is operating on the premises of a private school; or
- (5) a license or permit covering a premise where minors are prohibited from entering under V.T.C.A., Alcoholic Beverage Code § 109.53, as amended, (i.e. a package store) and that is located within 1,000 feet of a private school.

(Prior Code, § 4-2; Ord. No. 2017-4830)

State law reference -- V.T.C.A., Alcoholic Beverage Code § 109.33.

Sec. 4-4. Measurement of distances for church and public hospital.

The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital will be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(Prior Code, § 4-3; Ord. No. 2009-4323)

State law reference -- Similar provisions, V.T.C.A., Alcoholic Beverage Code § 109.33(b).

Sec. 4-5. Measurement for public and private school.

The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school will be:

- (a) in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or
- (b) if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.
- (c) As to any business who held a license or permit on September 1, 1983, the measurement of the

distance between the place of business of the dealer and a public or private school will be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(Prior Code, § 4-4; Ord. No. 2017-4830)

State law reference -- Similar provisions, V.T.C.A., Alcoholic Beverage Code § 109.33(b), (d).

Sections 4-6--4-10. Reserved.

ARTICLE IV. MUNICIPAL FEES AND REGISTRATION

State law reference -- Authority to require licenses and permits and fees, V.T.C.A., Alcoholic Beverage Code § § 11.38; 61.36.

Sec. 4-11. Municipal fees and City registration.

- (a) A municipal fee is levied in the amount of one-half the state fee for each license or permit issued for premises located within the City, except as otherwise provided by state law. The municipal fees must be paid to the City when the license or permit fees are paid to the state.
- (b) The City will issue a certificate of registration under this Section to a licensee or permittee authorizing the sale of alcoholic beverages under this Chapter and a license or permit, if the licensee or permittee:
 - (1) pays the fees established by Subsection (a); and
 - (2) provides the City with a copy of the license or permit.
- (c) A person who sells an alcoholic beverage at a business location before the person receives a certificate of registration from the City as provided by this Section commits a Class C misdemeanor.
- (d) The City's certificate of registration must be displayed in a conspicuous place at all times on the licensed or permitted premises. It is unlawful for a person in charge of such premises to fail to display this certificate of registration.

(Prior Code, § 4-11; Ord. No. 2009-4323)

State law reference -- Authority for license and permit fees, V.T.C.A. Alcoholic Beverage Code § 11.38; § 61.36.

Sections 4-12--4-20. Reserved.

ARTICLE V. SALE OF ALCOHOLIC BEVERAGES ON CITY PROPERTY

Sec. 4-21. Sale of alcoholic beverages on City property prohibited except where specially permitted.

- (a) City Property. It is unlawful for any person to sell alcoholic beverages in any public park of the City, or on or in other publicly owned property, save and except that the City and concessionaires or caterers having a contract with the City to sell alcoholic beverages at the Frank W. Mayborn Civic and Convention Center, Santa Fe Depot, and at Sammons Park, if properly licensed or permitted by the state, may sell alcoholic beverages upon the premises of the civic and convention center, depot, and within the Sammons Park Restaurant, Clubhouse, and deck exclusively. The City Manager may authorize a special event permit for the sale of alcoholic beverages on City property other than a City park.
- (b) Criteria for Permits. The City Council may from time to time by resolution establish criteria for special event permit applications and approvals under this Section.

(Prior Code, § 4-21; Ordinance No. 2009-4323)

ARTICLE VI. ENFORCEMENT

Sec. 4-22. Criminal offense.

- (a) A person violating a provision of this Chapter commits a Class C misdemeanor for each separate violation for each day, or part of a day, during which the violation is committed, continued, or permitted. Each offense is punishable by a fine not to exceed five hundred dollars (\$500.00).
- (b) A culpable mental state is hereby not required to prove an offense under this Chapter.

ORDINANCE NO. _____
(FY-20-5-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A REZONING FROM CENTRAL AREA TO PLANNED DEVELOPMENT CENTRAL AREA ZONING DISTRICT WITH A SITE DEVELOPMENT PLAN, TO ALLOW A MICROBREWERY FOR ALCOHOL SALES AT 8 SOUTH 1ST STREET; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the applicant requests a rezoning from Central Area (CA) to Planned Development Central Area (PD-CA) to allow for the development of a microbrewery in downtown Temple--- the microbrewery will brew beer for consumption in the taproom and an optional outdoor seating area in front of the business;

Whereas, the CA zoning district does permit the sale of alcohol for on-premise consumption, subject to approval of a Conditional Use Permit - sales for off-premise consumption are permitted by right;

Whereas, the Planned Development will specifically allow for on premises brewing - while the use tables shown in Section 5.1 of the City's Unified Development Code (UDC) allow for establishments that sell alcohol in the CA district, small-scale brewing operation, such as a microbrewery are not clearly defined—the applicant does not plan to distribute any products and brewed beer will only be available for on-site consumption or purchase;

Whereas, a “microbrewery” is proposed to be defined for purposes of the proposed Planned Development as an establishment which holds a permit from the Texas Alcoholic Beverage Commission (TABC) for brewing, fermentation, production, or processing of alcoholic beverages with a floor area of 10,000 square feet or less and an annual production of 2,000 barrels of beer (bbl) or less that takes place wholly inside a building. Alcoholic beverages may include beer and/or cider-- A tasting or retail sales area with or without food service and/or outdoor seating is allowed, and a facility that only provides tasting or retail sales of alcoholic beverages is also included;

Whereas, Staff recommends approval of the requested rezoning from CA zoning district to PD-CA as the PD-CA zoning designation will allow the proposed microbrewery use to be in compliance with Section 5 of the UDC, the request complies with the Thoroughfare Plan, and public facilities are available to serve the subject property—recommended approval is subject to the following conditions:

- Development will be consistent with the site development plan attached as Exhibit A;
- Use of the property as micro-brewery, as herein defined, will specifically be allowed;

Whereas, at its November 18, 2019 meeting the Planning and Zoning Commission of the City of Temple, Texas, voted 7-0 to recommend approval of the rezoning from CA zoning district to PD-CA zoning district, of the property located at 8 South 1st Street, as outlined in the map attached

hereto as Exhibit 'A,' and made a part hereof for all purposes, based on staff's recommendations and subject to staff's recommended conditions;

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Part 2: The City Council approves the rezoning from Central Area zoning district to Planned Development-Central Area zoning district, of the property located at 8 South 1st Street, as outlined in the map attached hereto as Exhibit 'A,' and made a part hereof for all purposes, and subject to the following conditions:

- Development will be consistent with the site development plan attached as Exhibit A;
- Use of the property as micro-brewery, as herein defined, will specifically be allowed.

Part 3: The City Council defines "microbrewery" or for purposes of this Planned Development as an establishment which holds a permit from the Texas Alcoholic Beverage Commission (TABC) for brewing, fermentation, production, or processing of alcoholic beverages with a floor area of 10,000 square feet or less and an annual production of 2,000 barrels of beer (bbl) or less that takes place wholly inside a building. Alcoholic beverages may include beer and/or cider. A tasting or retail sales area with or without food service and/or outdoor seating is allowed, and a facility that only provides tasting or retail sales of alcoholic beverages is also included in this definition.

Part 4: The City Council approves the Site Development Plan which is made a part hereof for all purposes.

Part 5: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.

Part 6: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

Part 7: This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 8: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **5th** day of **December**, 2019.

PASSED AND APPROVED on Second Reading on the **19th** day of **December**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephanie Hedrick
Deputy City Secretary

Kathryn Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/05/19

Item #9

Regular Agenda

Page 1 of 3

DEPT. / DIVISION SUBMISSION REVIEW:

Jason Deckman, Planner

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – FY-20-4-ZC: Consider adopting an ordinance authorizing a Conditional Use Permit to allow a microbrewery for alcohol sales at 8 South 1st Street.

PLANNING & ZONING COMMISSION RECOMMENDATION: At its meeting on November 18, 2019, the Planning & Zoning Commission voted 7 to 0 to recommend approval per staff's recommendation.

STAFF RECOMMENDATION: Based on the following analysis that:

1. The project has demonstrated compliance with the specific standards in Unified Development Code (UDC) Section 5.3.15;
2. The project has demonstrated compliance to Chapter 4 of the City of Temple Code of Ordinances related to alcoholic beverages; and
3. The request is compatible with adjacent and anticipated uses in Downtown Temple.

Staff recommends approval of the requested Conditional Use Permit to allow establishments where greater than 75% of the gross revenue is from the sale of all alcoholic beverages for on-premise consumption, subject to the following conditions:

1. Sale of all alcoholic beverages for on-premise consumption be contained within the developed site of 8 South 1st Street;
2. Compliance with UDC Section 5.3.15 related to all alcoholic beverage sales with on-premise consumption; and
3. Compliance with Chapter 4 of the City Code of Ordinances related to alcoholic beverages.

ITEM SUMMARY: The applicant, JD McBride, requests a Conditional Use Permit to allow the sale all alcoholic beverages for consumption on the premises at Firebase Brewing. Mr. McBride proposes to brew beer to be consumed at the taproom or an optional outdoor seating area. Beer will also be sold for off-premise consumption in the form of 'growlers' filled at the brewery.

BACKGROUND: An establishment with over 75% gross revenue derived from the sale of all alcoholic beverages for on-site consumption in the CA zoning district is subject to approval of a Conditional Use Permit. This CUP is contingent on approval of a proposed Planned Development Rezoning. The CUP is compatible with requested PD-CA zoning, with the necessary conditions to mitigate possible impacts on neighboring properties. The proposed microbrewery will be in compliance with UDC Section 5.3.15, as well as Chapter 4 of the City Code.

UDC Section 5.3.15 provides for multiple performance standards related to the provision of a Conditional Use Permit for the sale of alcoholic beverages. Some of which include, but not limited to:

- The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the Citizens of the City,
- The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee must consult with the Chief of Police, who acts in an advisory capacity, to determine the number of qualified employees necessary to meet such obligations.
- The establishment must not be within 300 feet of a public park or any residentially zoned or developed lot. (UDC 5.3.15.B)

Additionally, the UDC states:

The City Council may deny or revoke a Conditional Use Permit in accordance with UDC Section 3.5 if it affirmatively determines that the issuance of the permit is:

- a. Incompatible with the surrounding uses of property; or*
- b. Detrimental or offensive to the neighborhood or contrary to the health, safety and general welfare of the City and its inhabitants, and*
- c. Per UDC Section 3.5.5, the Planning & Zoning Commission may recommend, and the City Council may impose additional conditions of approval.*

Further, Chapter 4 of the City Code requires that all establishments with alcoholic beverage sales with on-premise consumption are not within a straight-line distance of 300 feet of a place of worship, public school or public hospital. None of the identified uses are within 300 feet of the proposed brewhouse.

Adherence to both UDC Section 5.3.15 & Chapter 4 in their entirety is included by reference in the Ordinance as conditions of approval. A Conditional Use Permit runs with the property and a change in ownership or change in the lessee does not affect the Conditional Use Permit.

DEVELOPMENT REVIEW COMMITTEE (DRC): The Development Review Committee reviewed the case on November 6, 2019 and found no significant issues. Public Works has determined that discharge resulting from the brewery operations at this location will be minimal and will not have significant impact on the collection system or the wastewater treatment plant.

PUBLIC NOTICE: Sixteen properties within 200-feet of the subject property were sent notice of the public hearing as required by State law and City Ordinance. As of Monday November 18, 2019, at 12:00 PM, the notices in agreement have been received. Staff will provide an update regarding late responses, if necessary.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Site Plan \(Exhibit A\)](#)

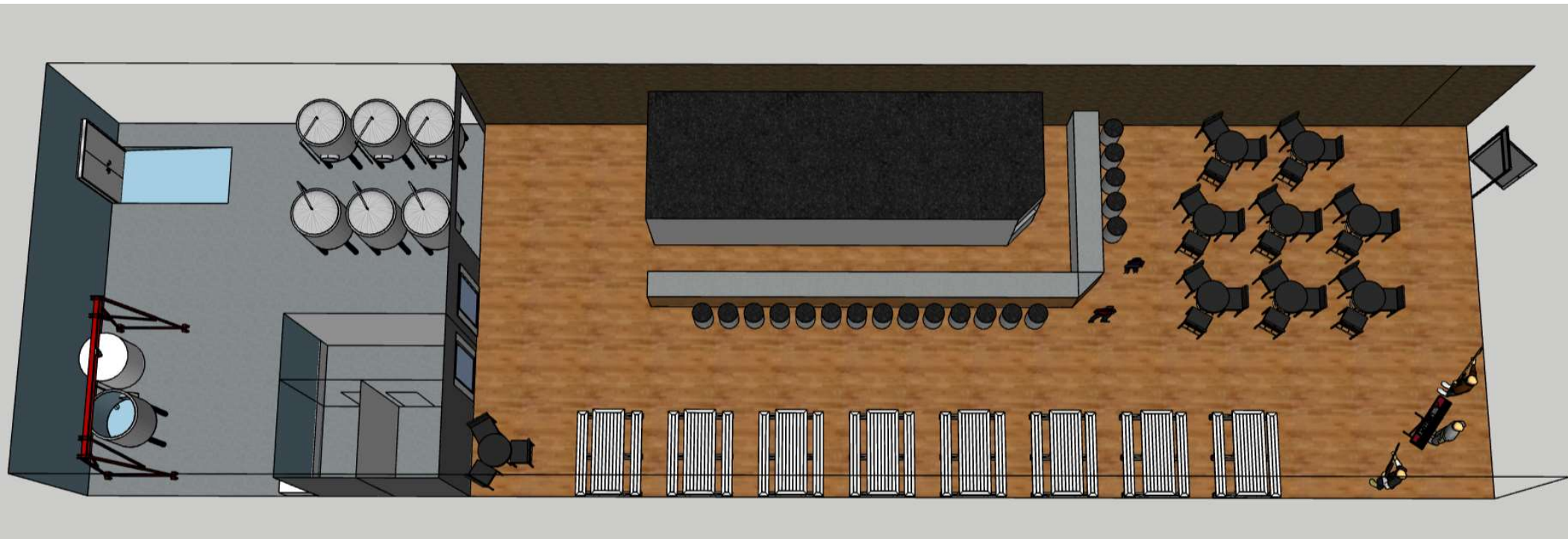
[Site and Surrounding Property Photos](#)

[Maps](#)

[Returned Property Notices](#)

[Code Extracts – UDC 5.3.15 and Chapter 4 Ordinance](#)

EXHIBIT A







Facing south along S. 1st Street



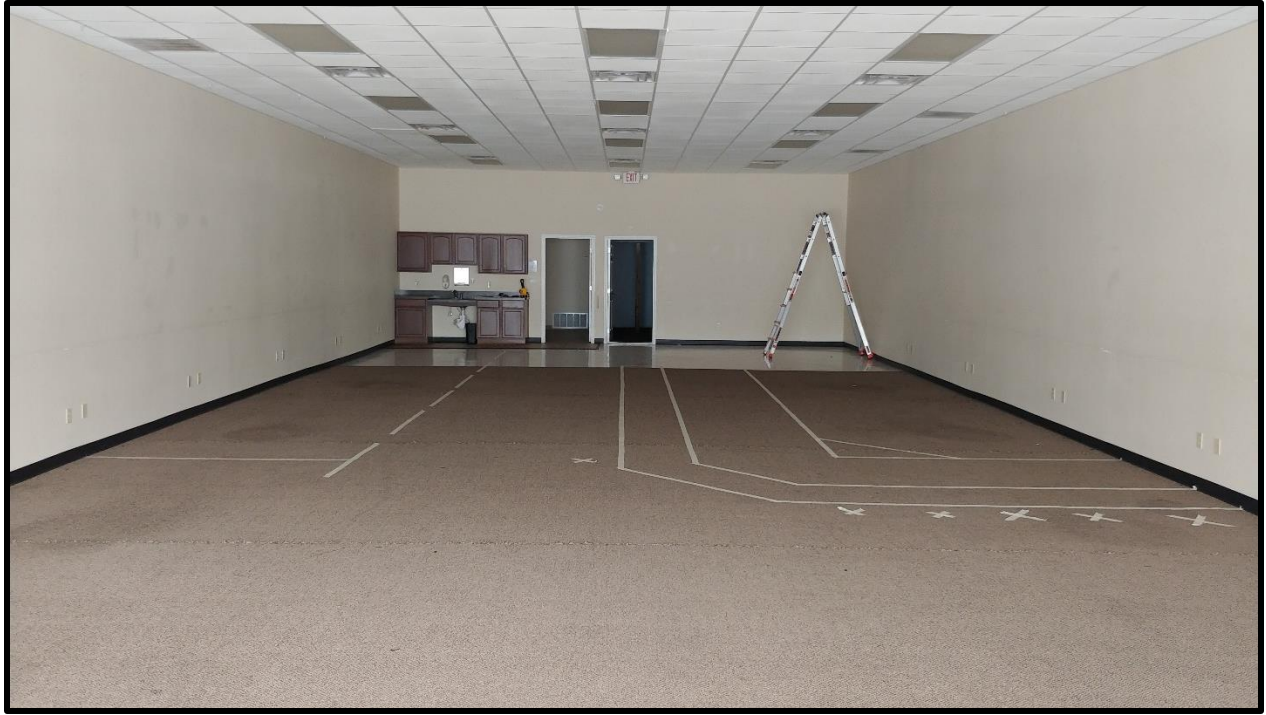
Facing north along S. 1st Street



Front of property along S. 1st Street



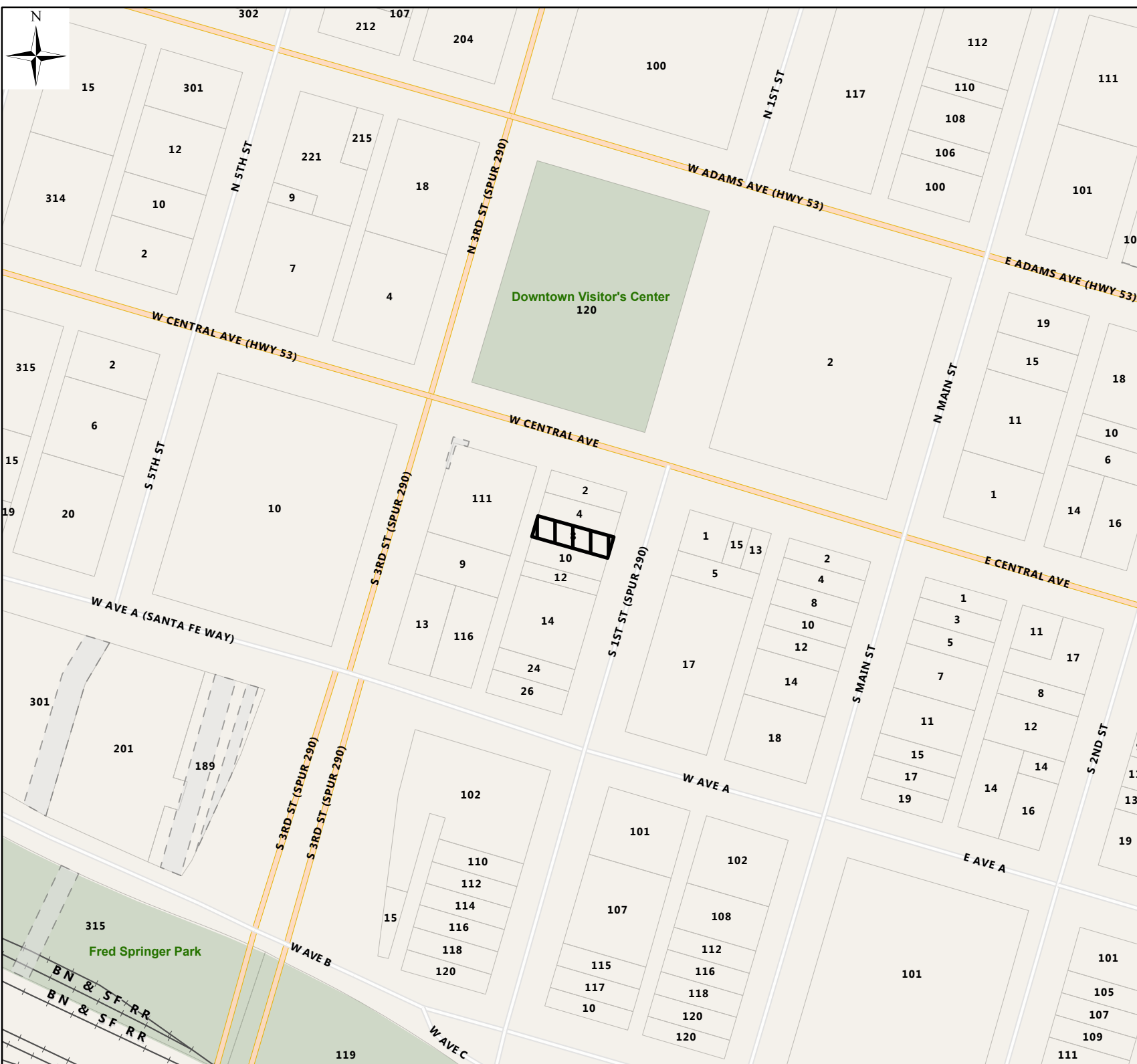
Alley at rear of building, facing south



Interior, facing rear



Interior, facing entrance



CA TO PD-CA

AERIAL MAP

Zoning Case :
FY-20-5-ZC

Address :
8 S. 1ST STREET

Transportation

Streets

MAJOR ARTERIAL

LOCAL STREET

Railroad

Temple Municipal Boundary

Parcel Features

Parcels

Production.SDE.Easement

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

jdeckman

Date: 10/31/2019





CA TO PD-CA

AERIAL MAP

Zoning Case :
FY-20-5-ZC

Address :
8 S. 1ST STREET

Transportation

Streets

MAJOR ARTERIAL

LOCAL STREET

Temple Municipal Boundary

Parcel Features

Parcels

Production.SDE.Easement

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jdeckman

Date: 10/31/2019





CA TO PD-CA

UTILITY MAP

Zoning Case :
FY-20-5-ZC

Address :
8 S. 1ST STREET

Sewer

- Manhole
- Gravity Main

Water Distribution

- ✚ Hydrant
- Main

Parcel Features

- Parcels
- Easement

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jdeckman
Date: 10/31/2019





Downtown
Visitor's
Center 120

W. CENTRAL AVE

S 1ST ST (SPUR 290)

CA TO PD-CA THOROUGHFARE AND TRAILS MAP

Zoning Case :
FY-20-5-ZC

Address :
8 S. 1ST STREET

Parcel Features

Parcels

Thoroughfare Plan

Expressway

Major Arterial

Proposed Major
Arterial

Minor Arterial

Proposed Minor
Arterial

Collector

Proposed
Collector

EXISTING,
COMMUNITY
WIDE
CONNECTOR

EXISTING,
LOCAL
CONNECTOR

PROPOSED,
CITY WIDE
SPINE

PROPOSED,
COMMUNITY
WIDE
CONNECTOR

PROPOSED,
LOCAL
CONNECTOR

Easement

Trails Master Plan

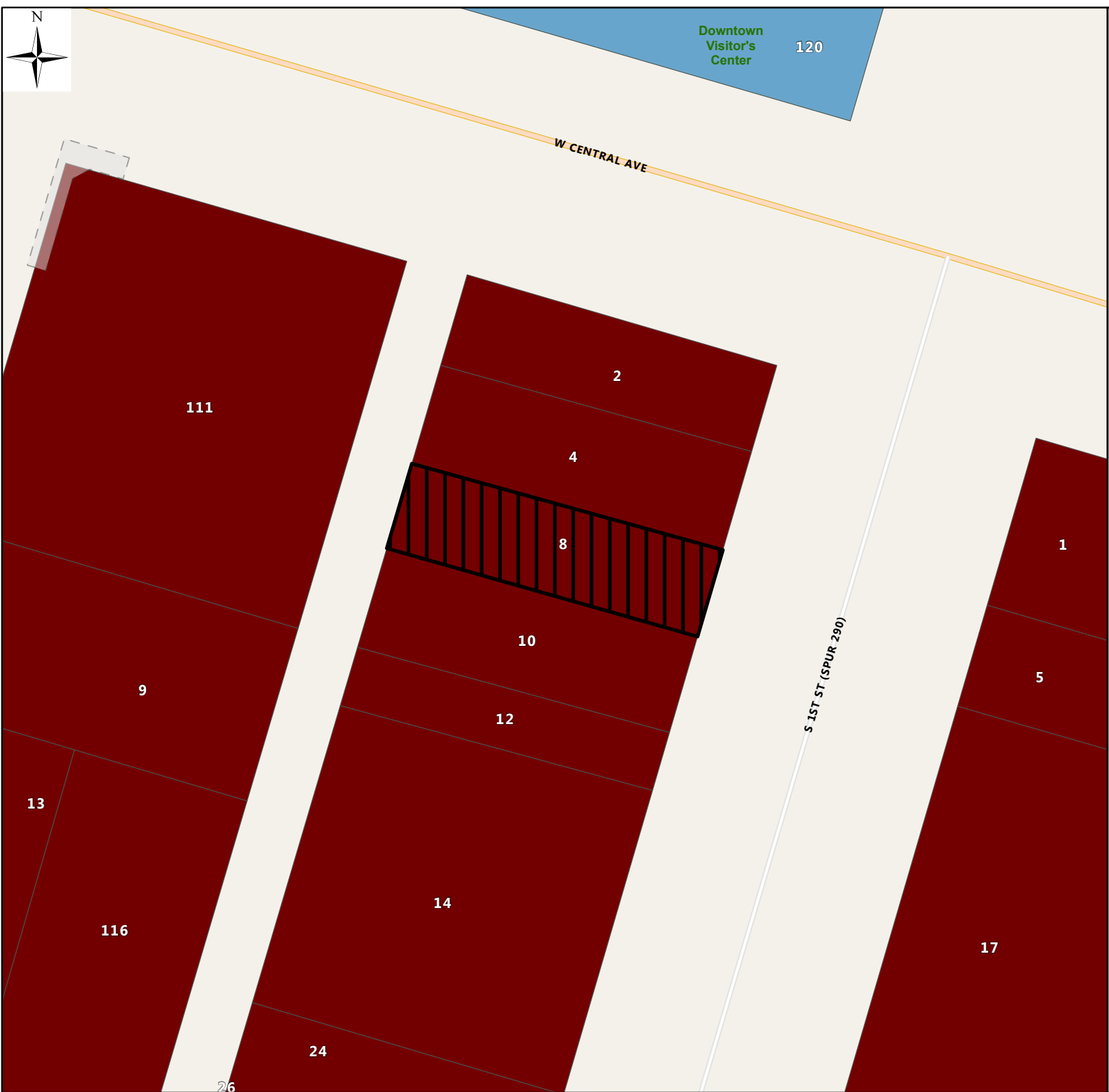
EXISTING, CITY
WIDE SPINE

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of property boundaries and other features.

jdeckman

Date: 10/31/2019





CA TO PD-CA FUTURE LAND USE MAP

Zoning Case :
FY-20-5-ZC

Address :
8 S. 1ST STREET

Transportation

- EXPRESSWAY
- MAJOR ARTERIAL
- COLLECTOR
- LOCAL STREET
- MINOR ARTERIAL
- PRIVATE
- RAMP

Parcel Features

Parcels

Future LUP

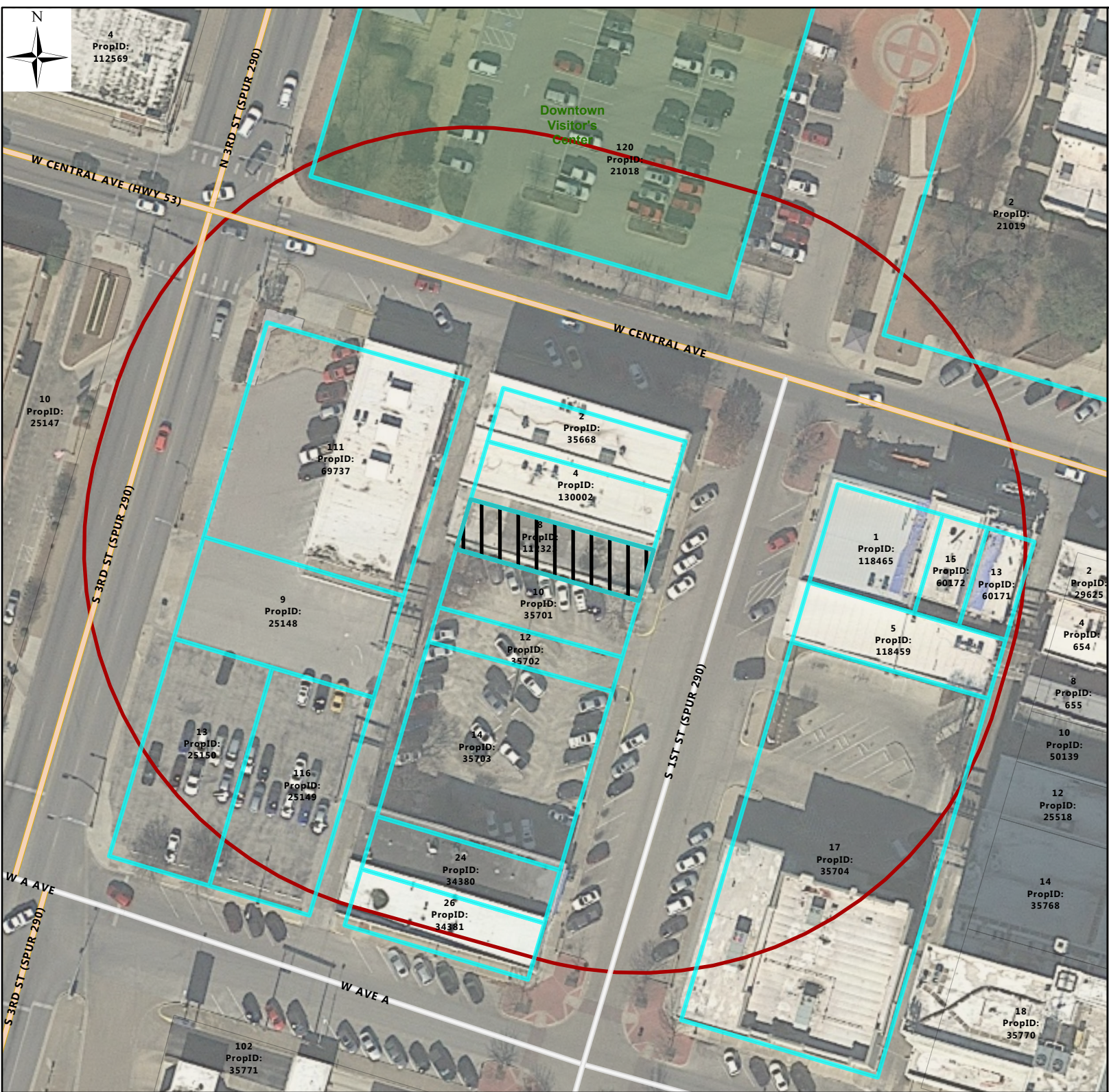
- Agricultural/Rural
- Auto-Urban Commercial
- Auto-Urban Mixed Use
- Auto-Urban Multi-Family
- Auto-Urban Residential
- Business Park
- Estate Residential
- Industrial
- Neighborhood Conservation
- Parks & Open Space
- Public Institutional
- Suburban Commercial
- Suburban Residential
- Temple Medical Education District
- Urban Center
- Easement

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jdeckman

Date: 10/31/2019





CA TO PD-CA

200'

NOTIFICATION MAP

Zoning Case :
FY-20-5-ZC

Address :
8 S. 1ST STREET



Easement

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jdeckman

Date: 10/31/2019





**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

25149
MAYBORN, FRANK ENTERPRISES INC
PO BOX 6114
TEMPLE, TX 76503-6114

NOTICE OF PUBLIC HEARING DATES HAVE CHANGED (SEE ATTACHED)

Zoning Application Number: FY-20-5-ZC

Case Manager: Jason Deckman

Location: 8 South 1st Street, Temple, Texas

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ agree

() disagree with this request

Comments:


Signature

Anyse Sue Mayborn
Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, jdeckman@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **November 18, 2019**.

**City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501**

Number of Notices Mailed: 16

Date Mailed: November 6, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

25150
MAYBORN, FRANK ENTERPRISES INC
PO BOX 6114
TEMPLE, TX 76503-6114

NOTICE OF PUBLIC HEARING DATES HAVE CHANGED (SEE ATTACHED)

Zoning Application Number: FY-20-5-ZC

Case Manager: Jason Deckman

Location: 8 South 1st Street, Temple, Texas

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I ☒ agree

() disagree with this request

Comments:


Signature

Anyse Sue Mayborn
Print Name

(Optional)

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**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

25148
MAYBORN, FRANK ENTERPRISES INC
PO BOX 6114
TEMPLE, TX 76503-6114

NOTICE OF PUBLIC HEARING DATES HAVE CHANGED (SEE ATTACHED)

Zoning Application Number: FY-20-5-ZC

Case Manager: Jason Deckman

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I ☒ agree

() disagree with this request

Comments:


Signature

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Print Name

(Optional)

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**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

69737
MAYBORN, FRANK ENTERPRISES INC
PO BOX 6114
TEMPLE, TX 76503-6114

NOTICE OF PUBLIC HEARING DATES HAVE CHANGED (SEE ATTACHED)

Zoning Application Number: FY-20-5-ZC

Case Manager: Jason Deckman

Location: 8 South 1st Street, Temple, Texas

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I ☒ agree

☐ disagree with this request

Comments:


Signature

Anyse Sue Mayborn
Print Name

(Optional)

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CITY OF TEMPLE**

25149
MAYBORN, FRANK ENTERPRISES INC
PO BOX 6114
TEMPLE, TX 76503-6114

NOTICE OF PUBLIC HEARING DATES HAVE CHANGED (SEE ATTACHED)

Zoning Application Number: FY-20-4-ZC

Case Manager: Jason Deckman

Location: 8 South 1st Street, Temple, Texas

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I ☒ agree

() disagree with this request

Comments:


Signature

Anyse Sue Mayborn
Print Name

(Optional)

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I ☒ agree

() disagree with this request

Comments:


Signature

Anyse Sue Mayborn
Print Name

(Optional)

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I ☒ **Agree**

(☐) **disagree with this request**

Comments:


Signature

Anyse Sue Mayborn
Print Name

(Optional)

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PO BOX 6114
TEMPLE, TX 76503-6114

NOTICE OF PUBLIC HEARING DATES HAVE CHANGED (SEE ATTACHED)

Zoning Application Number: FY-20-4-ZC

Case Manager: Jason Deckman

Location: 8 South 1st Street, Temple, Texas

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ agree

() disagree with this request

Comments:


Signature

Anyse Sue Mayborn
Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, jdeckman@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **November 18, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 16

Date Mailed: November 6, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

60172
BCMERC HOLDINGS L L C
15 W CENTRAL AVE
TEMPLE, TX 76501-7627

RECEIVED
PLANNING DEPARTMENT
CITY OF TEMPLE
NOV 13 2019

Zoning Application Number: FY-20-4-ZC

Case Manager: Jason Deckman

Location: 8 South 1st Street, Temple, Texas

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ agree

() disagree with this request

Comments:

Signature

Anthony D. Beach

Print Name

ANTHONY D. BEACH

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, jdeckman@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **November 18, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 16

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1. Commission means the City of Temple.
2. Executive Director and Chief Clerk means the Director of Public Works.
3. Permit, when referring to City's administration of Registration requirements, means Conditional Use Permit.

5.3.14 Recycling Collection Location or Operation

A recycling operation inside a building, recycling operation outside a building and recycling collection location may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A. The buying and receiving area must be set back a minimum of 50 feet from the public street right-of-way.
- B. A minimum separation of 75 feet is required between any processing operation and the property line of any adjacent property zoned for residential purposes.
- C. The internal circulation area within a tract used for a recycling collection location must consist of a non-permeable surface of either asphalt or concrete.

5.3.15 Alcoholic Beverage Sales for On-Premise Consumption

An establishment with alcoholic beverage sales for on-premise consumption may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A. The following standards apply to all establishments with on-premise consumption of alcoholic beverages.
 1. The permittee must design and operate the establishment in such a manner that the use of the premises does not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
 2. The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six months from the date of the issuance of the Conditional Use Permit, such limitation in time being subject to City review and possible extension. Nothing in this Section herein permits the sale of

Article 5: Use Standards

Sec. 5.3. Specific Use Standards

alcoholic beverages prior to the issuance of an applicable permit or license issued by the Texas Alcoholic Beverage Commission.

3. The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its Conditional Use Permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours.
4. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
5. The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee must consult with the Chief of Police, who acts in an advisory capacity, to determine the number of qualified employees necessary to meet such obligations.
6. The establishment must provide adequate parking spaces in accordance with the standards in Sec. 7.5.
7. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
8. The City Council may deny or revoke a Conditional Use Permit in accordance with Sec. 3.5 if it affirmatively determines that the issuance of the permit is:
 - a. Incompatible with the surrounding uses of property; or
 - b. Detrimental or offensive to the neighborhood or contrary to the health, safety and general welfare of the City and its inhabitants.

9. A Conditional Use Permit runs with the property and a change in the owner or lessee of a permitted establishment does not affect the Conditional Use Permit.
 10. All Conditional Use Permits must be further conditioned that the permit may be canceled, suspended or revoked in accordance with the revocation clause set forth in paragraph 8 above.
 11. The use must comply with City of Temple Code of Ordinances, Chapter 4, "Alcoholic Beverages."
- B.** In addition to the standards in subsection A above, the following standards apply to all establishments where the gross revenue from the sale of alcoholic beverages for on-premise consumption is 75% or more of the total gross revenue of the establishment.
1. The establishment must not be within 300 feet of a public park or any residentially zoned or developed lot.
 2. The distance between the establishment where alcoholic beverages are sold and a protected use listed in (B)(1) must be measured in a straight, direct line from the property line of the establishment to the nearest property line of a property where a protected use is located.
 3. An establishment in a multi-storied building on other than the ground floor must be treated as though it were on the ground floor for purpose of the measurement between property lines.

[Ord. 2017-4830 Chapter 4 & Ord. 2017-4829]

5.3.16 Outdoor Shooting Range

An outdoor shooting range may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A.** Only handguns (pistols and revolvers) are permitted to be used at the outdoor shooting range. No shotguns, rifles or automatic weapons are permitted at the range.
- B.** No armor piercing or incendiary ammunition is allowed.
- C.** Ammunition larger than 0.460 caliber is not allowed.

Chapter 4

ALCOHOLIC BEVERAGES

State law reference -- Alcoholic Beverage Code § 1.01 et seq.

ARTICLE I. IN GENERAL

Sec. 4-1. Definitions.

“City” means the City of Temple, Texas, the City Council of Temple, Texas, or its representatives, employees, agents, or designees.

“City Council” means the City’s elected governing body.

“City Manager” means the City’s city manager or their designee.

“License or permit” means a license or permit granted by the Texas Alcoholic Beverage Commission.

“Licensee or permittee” means a person holding a license or permit granted by the Texas Alcoholic Beverage Commission.

“Private school” means a private school, including a parochial school, that:

- (a) offers a course of instruction for students in one or more grades from kindergarten through grade 12; and
- (b) has more than 100 students enrolled and attending courses at a single location.

ARTICLE II. EXTENDED HOURS

Sec. 4-2. Extended hours.

- (a) Pursuant to Sections 105.03(d) and 105.05(d) of the V.C.T.A., Alcoholic Beverage Code, as amended, the City adopts extended hours sales of alcoholic beverages in any part of the City as follows:

- (1) A holder of a mixed beverage late hours permit may sell and offer for sale mixed beverages between midnight and 2 a.m. on any day.
- (2) A holder of a retail dealer's on-premise late hours license may sell, offer for sale, and deliver beer between midnight and 2 a.m. on any day.

State law reference -- V.T.C.A., Alcoholic Beverage Code § § 105.03, 105.05, and 105.06.

ARTICLE III. ALCOHOLIC BEVERAGE SALES NEAR SCHOOL, CHURCH, OR HOSPITAL

Sec. 4-3. Sales near school, church, or hospital.

- (a) The sale of alcoholic beverages is prohibited at a place of business that is located within:
 - (1) 300 feet of a church, public or private school, or public hospital;
 - (2) 1,000 feet of a private school if City Council receives a request from the governing body of the private school.
- (b) Subsection (a)(1) does not apply to the holder of:
 - (1) a license or permit who also holds a food and beverage certificate issued by the Texas Alcoholic Beverage Commission covering a premise that is located within 300 feet of a private school; or
 - (2) a license or permit covering a premise where minors are prohibited from entering under V.T.C.A., Alcoholic Beverage Code § 109.53, as amended, (i.e. a package store) and that is located within 300 feet of a private school.
- (c) Subsection (a)(2) does not apply to the holder of:
 - (1) a retail on-premises consumption permit or license if less than 50% of the gross receipts for the premises is from the sale or service of alcoholic beverages;
 - (2) a retail off-premises consumption permit or license if less than 50% of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages;

- (3) a wholesaler's, distributor's, brewer's, distiller's and rectifier's, winery, wine bottler's or manufacturer's permit or license, or any other license or permit held by a wholesaler or manufacturer as those words are ordinarily used and understood in V.T.C.A., Alcoholic Beverage Code Chapter 102, as amended;
- (4) a license or permit issued under V.T.C.A., Alcoholic Beverage Code Chapters 27 (Temporary and Special Wine and Beer Retailer's Permit), 31 (Caterer's Permit), or 72 (Temporary Licenses), all as amended, who is operating on the premises of a private school; or
- (5) a license or permit covering a premise where minors are prohibited from entering under V.T.C.A., Alcoholic Beverage Code § 109.53, as amended, (i.e. a package store) and that is located within 1,000 feet of a private school.

(Prior Code, § 4-2; Ord. No. 2017-4830)

State law reference -- V.T.C.A., Alcoholic Beverage Code § 109.33.

Sec. 4-4. Measurement of distances for church and public hospital.

The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital will be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(Prior Code, § 4-3; Ord. No. 2009-4323)

State law reference -- Similar provisions, V.T.C.A., Alcoholic Beverage Code § 109.33(b).

Sec. 4-5. Measurement for public and private school.

The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school will be:

- (a) in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or
- (b) if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.
- (c) As to any business who held a license or permit on September 1, 1983, the measurement of the

distance between the place of business of the dealer and a public or private school will be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(Prior Code, § 4-4; Ord. No. 2017-4830)

State law reference -- Similar provisions, V.T.C.A., Alcoholic Beverage Code § 109.33(b), (d).

Sections 4-6--4-10. Reserved.

ARTICLE IV. MUNICIPAL FEES AND REGISTRATION

State law reference -- Authority to require licenses and permits and fees, V.T.C.A., Alcoholic Beverage Code § § 11.38; 61.36.

Sec. 4-11. Municipal fees and City registration.

- (a) A municipal fee is levied in the amount of one-half the state fee for each license or permit issued for premises located within the City, except as otherwise provided by state law. The municipal fees must be paid to the City when the license or permit fees are paid to the state.
- (b) The City will issue a certificate of registration under this Section to a licensee or permittee authorizing the sale of alcoholic beverages under this Chapter and a license or permit, if the licensee or permittee:
 - (1) pays the fees established by Subsection (a); and
 - (2) provides the City with a copy of the license or permit.
- (c) A person who sells an alcoholic beverage at a business location before the person receives a certificate of registration from the City as provided by this Section commits a Class C misdemeanor.
- (d) The City's certificate of registration must be displayed in a conspicuous place at all times on the licensed or permitted premises. It is unlawful for a person in charge of such premises to fail to display this certificate of registration.

(Prior Code, § 4-11; Ord. No. 2009-4323)

State law reference -- Authority for license and permit fees, V.T.C.A. Alcoholic Beverage Code § 11.38; § 61.36.

Sections 4-12--4-20. Reserved.

ARTICLE V. SALE OF ALCOHOLIC BEVERAGES ON CITY PROPERTY

Sec. 4-21. Sale of alcoholic beverages on City property prohibited except where specially permitted.

- (a) City Property. It is unlawful for any person to sell alcoholic beverages in any public park of the City, or on or in other publicly owned property, save and except that the City and concessionaires or caterers having a contract with the City to sell alcoholic beverages at the Frank W. Mayborn Civic and Convention Center, Santa Fe Depot, and at Sammons Park, if properly licensed or permitted by the state, may sell alcoholic beverages upon the premises of the civic and convention center, depot, and within the Sammons Park Restaurant, Clubhouse, and deck exclusively. The City Manager may authorize a special event permit for the sale of alcoholic beverages on City property other than a City park.
- (b) Criteria for Permits. The City Council may from time to time by resolution establish criteria for special event permit applications and approvals under this Section.

(Prior Code, § 4-21; Ordinance No. 2009-4323)

ARTICLE VI. ENFORCEMENT

Sec. 4-22. Criminal offense.

- (a) A person violating a provision of this Chapter commits a Class C misdemeanor for each separate violation for each day, or part of a day, during which the violation is committed, continued, or permitted. Each offense is punishable by a fine not to exceed five hundred dollars (\$500.00).
- (b) A culpable mental state is hereby not required to prove an offense under this Chapter.

ORDINANCE NO. 2019-5013
(FY-20-4-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,
AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW A
MICROBREWERY FOR ALCOHOL SALES AT 8 SOUTH 1ST STREET;
PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE;
AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the applicant proposes to brew beer on the premises at Firebase Brewing, at 8 South 1st Street, to be consumed at the taproom or an optional outdoor seating area and to sell beer for off-premise consumption in the form of ‘growlers’ filled at the brewery the applicant is requesting a Conditional Use Permit (CUP) to allow the sale all alcoholic beverages for consumption;

Whereas, an establishment with over 75% gross revenue derived from the sale of all alcoholic beverages for on-site consumption in the Central Area (CA) zoning district is subject to approval of a CUP- the CUP is compatible with PD-CA zoning with the necessary conditions to mitigate possible impacts on neighboring properties;

Whereas, Staff recommends approval of the CUP based on the analysis that the project has demonstrated compliance with the specific standards in the City of Temple’s Unified Development Code Section 5.3.15, the project has demonstrated compliance with Chapter 4 of the City’s Code of Ordinances related to alcoholic beverages, and the request is compatible with adjacent and anticipated uses in downtown Temple subject to the following conditions:

- Sale of all alcoholic beverages for on-premise consumption be contained within the developed site of 8 South 1st Street;
- Compliance with UDC Section 5.3.15 related to all alcoholic beverage sales with on-premise consumption;
- Compliance with Chapter 4 of the City Code of Ordinances related to alcoholic beverages;

Whereas, the Planning and Zoning Commission of the City of Temple, Texas, at its November 18, 2019 meeting, after due consideration, voted 7-0 to recommend approval of the requested Conditional Use Permit per staff’s recommendation; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
TEMPLE, TEXAS, THAT:**

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Part 2: The City Council approves a Conditional Use Permit to allow a microbrewery for alcohol sales at 8 South 1st Street and subject to the following conditions:

- Sale of all alcoholic beverages for on-premise consumption be contained within the developed site of 8 South 1st Street;
- Compliance with UDC Section 5.3.15 related to all alcoholic beverage sales with on-premise consumption; and
- Compliance with Chapter 4 of the City Code of Ordinances related to alcoholic beverages.

Part 3: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.

Part 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

Part 5: This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 6: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **5th** day of **December**, 2019.

PASSED AND APPROVED on Second Reading on the **19th** day of **December**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephanie Hedrick
Deputy City Secretary

Kathryn Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/05/19
Item #10
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Don Bond, P.E., CFM, Public Works Director
Richard Wilson, P.E., CFM, City Engineer

ITEM DESCRIPTION: Consider a resolution authorizing the adoption of the 2019 Water and Wastewater Master Plan.

STAFF RECOMMENDATION: Adopt resolution as presented in the Item Description.

ITEM SUMMARY: On April 20, 2017 Council adopted a resolution authorizing a professional services agreement with Kasberg, Patrick, and Associates, LP, for professional services required to complete the 2019 Water and Wastewater Master Plan. The Master Plan includes evaluation of system demands and improvements through 2070. The plan includes an assessment of current infrastructure, a water and wastewater system hydraulic analysis, and a plan for implementing future improvements.

FISCAL IMPACT: The total estimated cost for the projects identified in the 2019 Water and Wastewater Master Plan is \$171,935,000. Many of the projects have been reviewed and prioritized in the FY 2020 – FY 2025 Utility Capital Improvement Program.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9924-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,
ADOPTING THE 2019 WATER AND WASTEWATER MASTER PLAN; AND
PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on April 20, 2017, Council adopted a Resolution authorizing a professional services agreement with Kasberg, Patrick & Associates, LP to complete the 2019 Water and Wastewater Master Plan;

Whereas, the Master Plan includes evaluation of system demands and improvements through 2070, as well as an assessment of current infrastructure, a water and wastewater system hydraulic analysis, and a plan for implementing future improvements;

Whereas, Staff recommends Council adopt the 2019 Water and Wastewater Master Plan;

Whereas, the total estimated cost for the projects identified in the 2019 Water and Wastewater Master Plan is \$171,935,000 - many of the projects have been reviewed and prioritized in the fiscal year 2020 – fiscal year 2025 Utility Capital Improvement Program; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

Part 2: The City Council adopts the 2019 Water and Wastewater Master Plan.

Part 3: It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **5th** day of **December**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephanie Hedrick
Deputy City Secretary

Kayla Landeros
Interim City Attorney